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**South Carolina Board of Health and Environmental Control**

**Agenda**

**November 7, 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 September 12, 2019 meeting
2. Administrative and Consent Orders issued by Health Regulation
3. Administrative and Consent Orders issued by Environmental Affairs
4. Public Health Accreditation
5. Request for Approval of the Western Capacity Use Area Groundwater Management Plan
6. Notice of Proposed Regulation amending Regulation 61-93, *Standards for Licensing Facilities That Treat Individuals for Psychoactive Substance Abuse or Dependence*
7. Notice of Proposed Regulation amending Regulation 61-97, *Standards for Licensing Renal Dialysis Facilities*
8. **Public Hearing and Request for Notice of Final Regulation Approval,** Regulation 61-9, *Water Pollution Control Permits*, Proposed Amendment, Document No. 4888 (exempt from General Assembly review)
9. **Public Hearing and Request for Notice of Final Regulation Approval,** Regulation 61-68, *Water Classifications and Standards*, Proposed Amendment, Document No. 4887
10. **Public Hearing and Request for Notice of Final Regulation Approval,** Regulation 61-69, *Classified Waters*, Proposed Amendment, Document No. 4885
11. **Public Hearing and Request for Notice of Final Regulation Approval,** Regulation 61-79, *Hazardous Waste Management Regulations*, Proposed Amendment, Document No. 4882 (exempt from General Assembly review)
12. **Public Hearing and Request for Notice of Final Regulation Approval,** Regulation 61-79, *Hazardous Waste Management Regulations*, Proposed Amendment, Document No. 4883
13. Agency Affairs

Executive Session (if needed)

Adjournment

*Note: The next scheduled meeting is December 12, 2019.*

**SUMMARY SHEET**  
**SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL**

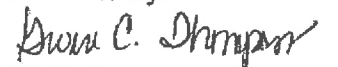
November 7, 2019

- ( ) 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 August 1, 2019 through September 30, 2019.
- III. **FACTS:** For the period of August 1, 2019 through September 30, 2019, Health Regulation reports 1 Administrative Order and 13 Consent Orders totaling \$29,770 in assessed monetary penalties. There were no Emergency Suspension Orders issued during the reporting period.

Health Regulation Bureau	Facility, Service, Provider, or Equipment Type	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
<b>Health Facilities Licensing</b>	Hospital	0	1	0	\$10,000
	Nursing Home	0	1	0	\$3,600
<b>EMS &amp; Trauma</b>	Paramedic	0	1	0	\$500
	Advanced EMT	0	2	0	\$0
	EMT	1	0	0	\$0
<b>Radiological Health</b>	Chiropractic Facility	0	1	0	\$1,885
	Dental Facility	0	5	0	\$8,685
	Medical Facility	0	2	0	\$5,100
<b>TOTAL</b>		<b>1</b>	<b>13</b>	<b>0</b>	<b>\$29,770</b>

Submitted By:



Gwen C. Thompson  
 Interim Director  
 Health Regulation

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

November 7, 2019

**Bureau of Health Facilities Licensing**

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Hospital	105	15,130

**1. McLeod Seacoast – Little River, SC**

Inspections and Investigations: The Department conducted a complaint investigation in April 2019 when the facility was licensed for 50 general hospital beds, and found that the facility violated regulatory requirements related to exceeding its licensed bed capacity.

Violations: The Department found that the facility had an additional 55 general hospital beds set up in preparation for an inspection by the Department. The Department further found, upon review of census records, that the facility exceeded its licensed bed capacity of 50 general hospital beds in October 2018, November 2018, December 2018, and January 2019. The Department had issued the facility a Certificate of Need (CON) for expansion of the facility to include the transfer of the 55 general hospital beds from McLeod Loris Hospital, and the Department had issued the facility a construction notice of completion related to the 55-bed expansion. However, the Department had not approved the amended licensing application nor conducted the licensing inspection to increase the number of beds as required by the hospital regulation. The facility also exceeded the number of licensed general hospital beds that were stated on the face of its license in violation of the hospital regulation.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. In September 2019, the parties executed a consent order imposing a civil monetary penalty of \$10,000 against the facility. The facility was required to pay the full \$10,000 assessed monetary penalty within 30 days of executing the Consent Order. The facility has made the required payment. The facility is now properly licensed for a total of 105 general hospital beds.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Nursing Home	195	20,557

**2. Veterans Victory House – Walterboro, SC**

Inspections and Investigations: The Department conducted several investigations, including March 2018, May 2018, November 2018, and January 2019, along with a general inspection in February 2019, and found that the facility repeatedly violated the same regulatory requirements.



Violations: The Department cited the facility for 13 violations, several of which were repeated during the March 2018, May 2018, November 2018, and February 2019 visits, involving improper actions regarding policies and procedures, staff training, resident records, resident care, and medication administration.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. In August 2019, the parties executed a consent order imposing a civil monetary penalty of \$3,600 against the facility. The facility was required to pay \$1,800 within 30 days of executing the Consent Order. The remaining \$1,800 will be held in abeyance for six months. The facility has made the required payment. The facility was also required to attend a compliance assistance meeting with the Department, which was completed in October 2019.

Prior Actions: None.

#### **Bureau of Emergency Medical Services and Trauma**

<b>Provider Type</b>	<b>Total # of Certified Paramedics</b>
Paramedic	3,824

#### **3. Scott C. Schafer – Paramedic**

Inspections and Investigations: In January 2019, the Department was notified of allegations against Mr. Schafer concerning the falsification of electronic patient care reports and initiated an investigation.

Violations: The Department found that Mr. Schafer falsified patient care information in two electronic patient care reports. Mr. Schafer committed misconduct in violation of the SC EMS law and regulation because he was found to be guilty of the falsification of documentation as required by the Department.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In August 2019, the parties executed a consent order imposing a \$500 monetary penalty on Mr. Schafer. Mr. Schafer was required to pay \$250 within 60 days of executing the Consent Order. The remaining \$250 will be held in abeyance for 12 months. Mr. Schafer has made the required payment. Mr. Schafer also agreed to complete a Professional Ethics and Personal Leadership class within 12 months of the execution of this Consent Order.

<b>Provider Type</b>	<b>Total # of Certified AEMTs</b>
AEMT	432

#### **4. Zachary A. Kelly – AEMT**

Inspections and Investigations: In February 2019, the Department was notified of allegations concerning conduct by Mr. Kelly while working for Southstar Ambulance Service and initiated an investigation.

Violations: The Department found that Mr. Kelly and his AEMT partner initiated care of patient at the scene of an illness and discontinued care or abandoned the patient without the patient's consent and without providing for the further administration of care by an equal or higher medical authority. Mr. Kelly did not report this incident to his supervisor. Mr. Kelly committed misconduct in violation of the SC EMS law and

regulation by discontinuing care of a patient at the scene of an illness without the patient's consent or without providing for the further administration of care by an equal or higher medical authority. Mr. Kelly further committed misconduct by observing the administration of substandard care by another AMET without documenting the event or notifying the supervisor. Mr. Kelly observed the substandard care of his AEMT partner and did not report it to his supervisor. Finally, Mr. Kelly committed misconduct because his actions or inactions created a substantial possibility that death or serious physical harm could result. Mr. Kelly's failure to transport the patient without the patient's consent created a substantial possibility that death or serious physical harm could result.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In August 2019, the parties executed a consent order imposing a six month suspension on Mr. Kelly's AEMT certification. Mr. Kelly also agreed to complete a Professional Ethics and Personal Leadership class within 12 months of the execution of this Consent Order.

Prior Actions: None.

#### **5. Noah R. Ramsey – AEMT**

Inspections and Investigations: In February 2019, the Department was notified of allegations concerning conduct by Mr. Ramsey while working for Southstar Ambulance Service and initiated an investigation.

Violations: The Department found that Mr. Ramsey and his AEMT partner initiated care of patient at the scene of an illness and discontinued care or abandoned the patient without the patient's consent and without providing for the further administration of care by an equal or higher medical authority. Mr. Ramsey did not report this incident to his supervisor. Mr. Ramsey committed misconduct in violation of the SC EMS law and regulation by discontinuing care of a patient at the scene of an illness without the patient's consent or without providing for the further administration of care by an equal or higher medical authority. Mr. Ramsey further committed misconduct by observing the administration of substandard care by another AMET without documenting the event or notifying the supervisor. Mr. Ramsey observed the substandard care of his AEMT partner and did not report it to his supervisor. Finally, Mr. Ramsey committed misconduct because his actions or inactions created a substantial possibility that death or serious physical harm could result. Mr. Ramsey's failure to transport the patient without the patient's consent created a substantial possibility that death or serious physical harm could result.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In August 2019, the parties executed a consent order imposing a six month suspension on Mr. Ramsey's AEMT certification. Mr. Ramsey also agreed to complete a Professional Ethics and Personal Leadership class within 12 months of the execution of this Consent Order.

Prior Actions: None.

Provider Type	Total # of Certified EMTs
EMT	6,463

#### **6. Theodore Keith Green, Sr. – EMT**

Inspections and Investigations: In August 2019, the Department was notified of allegations against Mr. Green pleading guilty to a criminal offense and initiated an investigation.

Violations: Mr. Green pled guilty to committing criminal sexual conduct with a minor, or attempt, second degree, as defined by S.C. Code Ann. Section 16-3-655(B). Therefore, the Department found that Mr. Green committed misconduct in violation of the SC EMS law and regulation by pleading guilty to a felony involving moral turpitude and gross immorality.

Enforcement Action: The Department issued an administrative order revoking Mr. Green's EMT certificate and will not reissue the certificate for a period of four years. At the end of the four-year period, Mr. Green may petition for reinstatement.

Prior Actions: None.

#### **Bureau of Radiological Health**

Facility Type	Total # of Chiropractic Facility X-Ray Registrants
Chiropractic	482

#### **7. O'Neill Chiropractic-Surfside Beach – Myrtle Beach, SC**

Inspections and Investigations: The Department conducted a routine inspection in January 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior June 2010, July 2013, and July 2016 inspections.

Violations: The Department found that the registrant failed to conduct routine "Equipment Performance Tests" on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,885 civil monetary penalty. The registrant agreed to pay \$471.25 of the assessed penalty over a three month period. The remaining balance of \$1,413.75 is stayed. The registrant has made the required first payment.

Prior Actions: None.

Facility Type	Total # of Dental Facility X-Ray Registrants
Dental	1746

#### **8. Clarence I. Norton, DDS – North Augusta, SC**

Inspections and Investigations: The Department conducted a routine inspection in January 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior October 2009 and November 2014 inspections.

Violations: The Department found that the registrant failed to conduct routine "Equipment Performance Tests" on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,700 civil monetary penalty. The registrant agreed to pay \$425 of the assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,275 is stayed. The registrant has made the required payment.

Prior Actions: None.

#### **9. Still & Reece Dentistry, LLC – Barnwell, SC**

Inspections and Investigations: The Department conducted a routine inspection in November 2018 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior September 2009 and November 2018 inspections.

Violations: The Department found that the registrant failed to conduct routine “Equipment Performance Tests” on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,700 civil monetary penalty. The registrant agreed to pay \$425 of the assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,275 is stayed. The registrant has made the required payment.

Prior Actions: None.

#### **10. Timothy J. Pence, DMD, MSD – Pawley’s Island, SC**

Inspections and Investigations: The Department conducted a routine inspection in January 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior June 2009 and October 2014 inspections.

Violations: The Department found that the registrant failed to conduct routine “Equipment Performance Tests” on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,700 civil monetary penalty. The registrant agreed to pay \$425 of the assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,275 is stayed. The registrant has made the required payment.

Prior Actions: None.

#### **11. Saluda Smilemakers – Saluda, SC**

Inspections and Investigations: The Department conducted a routine inspection in April 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior January 2010 and January 2015 inspections.

Violations: The Department found that the registrant failed to conduct routine “Equipment Performance Tests” on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,700 civil monetary penalty. The registrant agreed to pay \$425 of the

assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,275 is stayed. The registrant has made the required payment.

Prior Actions: None.

#### **12. Kristina M. O'Neill, DMD, P.A. – Columbia, SC**

Inspections and Investigations: The Department conducted a routine inspection in April 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior May 2005, November 2009, and January 2015 inspections.

Violations: The Department found that the registrant failed to conduct routine "Equipment Performance Tests" on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,885 civil monetary penalty. The registrant agreed to pay \$471.25 of the assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,413.75 is stayed. The registrant has made the required payment.

Prior Actions: None.

Facility Type	Total # of Dental Facility X-Ray Registrants
Medical	885

#### **13. SC ENT, Allergy & Sleep Medicine Columbia – Columbia, SC**

Inspections and Investigations: The Department conducted a routine inspection in June 2018 and found several violations pertaining to the X-Rays regulation, including repeat violations from February 2013 and January 2016 inspections.

Violations: The Department found that the registrant failed to produce personnel monitoring records, repeatedly failed to provide documentation of facility specific operator training, repeatedly failed to produce records of annual lead apron testing, repeatedly failed to produce records of equipment performance tests, and failed to produce documentation of the radiation area survey. Moreover, the registrant failed to ensure the exposure switch for the MiniCat CT Scanner met the x-ray control placement requirements. Lastly, the registrant failed to provide a written corrective action plan within the required timeframe.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$3,400 civil monetary penalty. The registrant has made the required payment.

Prior Actions: None.

#### **14. Conway Health Care – Conway, SC**

Inspections and Investigations: The Department conducted a routine inspection in January 2019 and found a repeat violation pertaining to the X-Rays regulation that was also cited in prior April 2010 and July 2013 inspections.

Violations: The Department found that the registrant failed to conduct routine “Equipment Performance Tests” on each x-ray unit, along with improper record retention of test results.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order imposing a \$1,700 civil monetary penalty. The registrant agreed to pay \$425 of the assessed penalty within 30 days of executing the Consent Order. The remaining balance of \$1,275 is stayed. The registrant has made the required payment.

Prior Actions: None.

SUMMARY SHEET  
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
November 7, 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 August 1, 2019, through September 30, 2019.
3. **FACTS:** For the reporting period of August 1, 2019, through September 30, 2019, the Office of Environmental Affairs issued two hundred seventy-three (273) Consent Orders with total assessed civil penalties in the amount of three hundred seventy-seven thousand, nine hundred ninety-one (\$377,991.00) dollars. Also, eight (8) Administrative Orders were reported during this period with total assessed civil penalties in the amount of fifty-four thousand, five hundred (\$54,500.00) dollars.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Agreements	Consent Orders	Assessed Penalties
<b>Land and Waste Management</b>					
UST Program	1	\$30,050.00	0	10	\$11,610.00
Aboveground Tanks	0	0	0	0	0
Solid Waste	1	\$21,950.00	0	1	\$0
Hazardous Waste	0	\$0	0	7	\$65,200.00
Infectious Waste	0	\$0	0	0	\$0
Mining	0	\$0	0	2	\$3,600.00
SUBTOTAL	2	\$52,000.00	0	20	\$80,410.00
<b>Water</b>					
Recreational Water	0	\$0	0	110	\$107,706.00
Drinking Water	0	\$0	0	3	\$2,000.00
Water Pollution	0	\$0	0	13	\$41,725.00
Dam Safety	0	\$0	0	0	\$0
SUBTOTAL	0	\$0	0	126	\$151,431.00
<b>Air Quality</b>					
SUBTOTAL	0	\$0	0	3	\$19,750.00
<b>Environmental Health Services</b>					
Food Safety	1	\$1,000.00	0	122	\$125,650.00
Onsite Wastewater	5	\$1,500.00	0	2	\$750.00
SUBTOTAL	6	\$2,500.00	0	124	\$126,400.00
<b>OCRM</b>					
SUBTOTAL	0	\$0	0	0	\$0
<b>TOTAL</b>	8	\$54,500.00	0	273	\$377,991.00

Submitted by:



Myra C. Reece  
Director of Environmental Affairs

**ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT  
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
November 7, 2019**

**BUREAU OF LAND AND WASTE MANAGEMENT**

**Underground Storage Tank Enforcement**

- 1)     Order Type and Number:                     Administrative Order 18-0274-UST  
          Order Date:                                 February 14, 2019  
          Individual/Entity:                       **1 Stop, LLC**  
          Facility:                                   One Stop  
          Location:                                  912 Kendall Road  
  Newberry, SC 29108  
  
          Mailing Address:                       Same  
          County:                                   Anderson  
          Previous Orders:                       None  
          Permit/ID Number:                   06512  
          Violations Cited:                    The State Underground Petroleum Environmental  
  Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-60(A) seq. (2018), and the  
  South Carolina Underground Storage Tank Control Regulations R.61-92, Section 280.93(a)  
  (2012 & Supp. 2018), R.61-92, Section 280.110(c) (2012 & Supp. 2018), and R.61-92, Section  
  280.70(c) (2012 & Supp. 2018).

Summary: 1 Stop, LLC (Individual/Entity), owns underground storage tanks located in Newberry, South Carolina. On October 23, 2018, the Department issued a Notice of Alleged Violation because 1 Stop, LLC failed to pay registration fees and associated late fees for fiscal years 2014 through 2019, failed to permanently close USTs that had been temporarily closed for greater than twelve (12) months and failed to demonstrate financial responsibility for an UST system. The Individual/Entity has violated the SUPERB Act and the S.C. Underground Storage Tank Control Regulations as follows: failed to pay outstanding registrations fees and associated late fees, failed to demonstrate financial responsibility for an underground storage tank system and failed to submit evidence of financial assurance to the Department upon request, and failed to permanently close USTs that have been temporarily closed for greater than twelve (12) months and do not meet current corrosion protection standards.

Action: The Individual/Entity is required to: Submit a completed Certificate of Financial Responsibility form and provide evidence of financial assurance; submit a UST Tank and Sludge Disposal form, permanently close USTs and submit a UST Closure and Assessment Report; pay outstanding registration fees and associated late fees in the amount of sixteen thousand, three hundred thirty-five dollars (\$16,335.00); and pay a civil penalty in the amount of thirty thousand fifty dollars **(\$30,050.00)**



2)      Order Type and Number:                      Consent Order 19-0099-UST  
         Order Date:                                      August 1, 2019  
         Individual/Entity:                              **The Kroger Co.**  
         Facility:    Kroger Fuel Ctr 002  
         Location:    7467 St. Andrews Road  
            Irmo, SC 29063  
         Mailing Address:                              1014 Vine Street, 3rd Floor  
            Cincinnati, OH 45202  
         County:     Lexington  
         Previous Orders:                                  None  
         Permit/ID Number:                              19307  
         Violations Cited:                              The State Underground Petroleum Environmental  
            Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq.* (2012 and Supp.  
            2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann.  
            Regs. 61-92.280.20(c)(1)(ii) (2012 and Supp. 2018).

Summary: The Kroger Co. (Individual/Entity) owns and operates underground storage tanks located in Lexington, South Carolina. On April 2, 2019, the Department conducted a routine inspection and issued a Notice of Alleged Violation because there was a no overfill prevention equipment on the UST #1 regular unleaded and UST #2 premium. On April 15, 2019, the Department received proof that drop tube shutoff valves had been installed on UST #1 regular unleaded and UST #2 premium. 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 on an underground storage tank system.

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

3)      Order Type and Number:                      Consent Order 19-0170-UST  
         Order Date:                                      August 8, 2019  
         Individual/Entity:                              **Lil Cricket Food Stores**  
         Facility:    Cricket 3877  
         Location:    2990 Sunset Boulevard  
            West Columbia, SC 29169  
         Mailing Address:                              1410 Commonwealth Drive, Suite 202  
            Wilmington, NC 29403-0377  
         County:     Lexington  
         Previous Orders:                                  None  
         Permit/ID Number:                              05812  
         Violations Cited:                              The State Underground Petroleum Environmental  
            Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 *et seq.* (2018) (SUPERB Act); and  
            South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-  
            92, 280.20(c)(1)(ii)(2012 & Supp. 2018)

Summary: Lil Cricket Food Stores (Individual/Entity) owns and operates underground storage tanks in West Columbia, South Carolina. On June 14, 2019, the Department issued a Notice of Alleged Violation because there was no overfill prevention device installed for the 10,000-gallon

premium tank. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Regulation, as follows: failed to equip a permitted or upgraded site with overfill prevention equipment. All violations have been corrected.

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

4)     Order Type and Number:                     Consent Order 19-0183-UST  
          Order Date:                                 August 13, 2019  
          Individual/Entity:                         **Tucker Transportation Company**  
          Facility:                                     Food Fare 2  
          Location:                                   7426 Hunt Club Road  
  Columbia, SC 29223  
          Mailing Address:                         1001 Idlewilde Boulevard  
  Columbia, SC 29201  
          County:                                     Richland  
          Previous Orders:                           None  
          Permit/ID Number:                       07885  
          Violations Cited:                       The State Underground Petroleum Environmental  
  Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 et seq. (2018) (SUPERB Act); and  
  South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-  
  92, 280.10(d)(2012 & Supp. 2018)

Summary: Tucker Transportation Company (Individual/Entity) distributes petroleum or petroleum products to underground storage tanks (USTs) in Columbia, South Carolina. On June 19, 2019, the Department issued a Notice of Alleged Violation because petroleum or petroleum products were introduced into an UST for which the owner did not hold a currently valid registration. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation, as follows: introduced petroleum or petroleum products into an UST for which the owner did not hold a currently valid registration.

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

5)     Order Type and Number:                     Consent Order 19-0195-UST  
          Order Date:                                 August 21, 2019  
          Individual/Entity:                         **Lil Cricket Food Stores**  
          Facility:                                     Cricket 3854  
          Location:                                   4884 Chesnee Highway  
  Mayo, SC 29368  
          Mailing Address:                         1410 Commonwealth Drive, Suite 202  
  Wilmington, NC 28403  
          County:                                     Spartanburg  
          Previous Orders:                           None  
          Permit/ID Number:                       08353

Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann., § 44-2-10 et seq. (2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-92.280.20(c)(1)(ii) (2018).

Summary: Lil Cricket Food Stores (Individual/Entity) owns underground storage tanks (USTs) located in Mayo, South Carolina. On July 10, 2019, The Department issued a Notice of Alleged Violation because no drop tube shut off valve was present in the regular unleaded tank. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to maintain overfill prevention for an UST system. All violations have been corrected.

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

6) Order Type and Number: Consent Order 19-0234-UST  
Order Date: August 28, 2019  
Individual/Entity: **Michael Lance**  
Facility: Lance's Mini Mart  
Location: 10088 Highway 707  
Myrtle Beach, SC 29575  
Mailing Address: Same  
County: Horry  
Previous Orders: 17-0197-UST  
Permit/ID Number: 10771  
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann., § 44-2-10 et seq. (2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-92.280.93(a) and 110(c) (2012 & Supp. 2018).

Summary: Michael Lance (Individual/Entity) owns underground storage tanks (USTs) located in Myrtle Beach, South Carolina. On May 16, 2019, the Department issued a Notice of Alleged Violation because there was no current financial responsibility documentation 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 demonstrate financial responsibility to the Department for an UST system and failed to submit evidence of financial assurance to the Department.

Action: The Individual/Entity is required to: submit a completed Certificate of Financial Responsibility form; submit evidence of financial assurance; and pay a civil penalty in the amount of eight hundred seventy dollars **(\$870.00)**.

7)      Order Type and Number:                      Consent Order 19-0224-UST  
         Order Date:                                      August 30, 2019  
         Individual/Entity:                              **OHM of Anderson, LLC**  
         Facility:    Corner Stop  
         Location:    900 Bolt Drive  
            Anderson, SC 29621-6741  
         Mailing Address:                              901 Bolt Drive  
            Anderson, SC 29621  
         County:    Anderson  
         Previous Orders:                                  None  
         Permit/ID Number:                              00472  
         Violations Cited:                              The State Underground Petroleum Environmental  
            Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 et seq. (2018), R.61-92,  
            Section 280.93(a) (2012 & Supp. 2018), and R.61-92, Section 280.110(c) (2012 & Supp.  
            2018).

Summary: OHM of Anderson, LLC (Individual/Entity), owns underground storage tanks located in Anderson, South Carolina. On May 16, 2019, the Department issued a Notice of Alleged Violation because OHM of Anderson, LLC failed to demonstrate financial responsibility and failed to submit evidence of financial assurance for an underground storage tank system with the Department. The Individual/Entity has violated the SUPERB Act as follows: failed to demonstrate financial responsibility for an underground storage tank system and failed to submit evidence of financial assurance to the Department upon request. All violations have been corrected.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of eight hundred seventy dollars **(\$870.00)**.

8)      Order Type and Number:                      Consent Order 19-0234-UST  
         Order Date:                                      August 30, 2019  
         Individual/Entity:                              **Paresh Bhatt**  
         Facility:    Revis Grocery 2  
         Location:    1005 North Congress Street  
            York, SC 29745  
         Mailing Address:                              2459 Ivy Creek Road  
            York, SC 29745  
         County:    York  
         Previous Orders:                                  None  
         Permit/ID Number:                              09351  
         Violations Cited:                              The State Underground Petroleum  
            Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann., § 44-2-10 et seq.  
            (2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code  
            Ann., Regs. 61-92.280.20(c)(1)(ii) (2012 & Supp. 2018).

Summary: Paresh Bhatt (Individual/Entity) owns underground storage tanks (USTs) located in York, South Carolina. On May 3, 2019, the Department issued a Notice of Alleged Violation because there was a stick in the drop tube shut off valve of the regular UST. 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 of an underground storage tank system. All violations have been corrected.

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 19-0292-UST  
         Order Date:                                      September 27, 2019  
         Individual/Entity:                              **Boxley Enterprises, Inc.**  
         Facility:    College Quick Mart  
         Location:    1200 Whaley Street  
            Columbia, SC 29201-4239  
         Mailing Address:                              656 Forest Cove, Oviedo, Florida 32765  
         County:    Richland  
         Previous Orders:                                      None  
         Permit/ID Number:                              07753  
         Violations Cited:                              The State Underground Petroleum Environmental  
            Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 et seq. (2018), and the  
            South Carolina Underground Storage Tank Control Regulations, 7 S.C. Code Ann. Regs. 61-  
            92.280.93(a) and 280.110(c) (2012 & Supp. 2018).

Summary: Boxley Enterprises, Inc. (Individual/Entity), owns underground storage tanks located in Columbia, South Carolina. On June 17, 2019, the Department issued a Notice of Alleged Violation for failure to have current financial responsibility documentation on file with the Department. The Individual/Entity has violated the SUPERB Act and the S.C. Underground Storage Tank Control Regulation as follows: failed to demonstrate financial responsibility for an underground storage tank system and failed to submit evidence of financial assurance to the Department upon request.

Action: The Individual/Entity is required to: submit a completed Certificate of Financial Responsibility form and submit evidence of financial assurance and pay a **suspended penalty** in the amount of eight hundred seventy dollars **(\$870.00)** should any requirement of the Order not be met.

10)      Order Type and Number:                      Consent Order 19-0228-UST  
         Order Date:                                      September 27, 2019  
         Individual/Entity:                              **Shiv One, LLC**  
         Facility:    Coosawhatchie General Store  
         Location:    6282 West Frontage Road  
            Coosawhatchie, SC 29936  
         Mailing Address:                              Same  
         County:    Jasper  
         Previous Orders:                                      16-0178-UST (\$1,200.00);  
            17-0410-UST (\$4,750.00)  
         Permit/ID Number:                              10422

Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-60(A) seq. (2018), and the South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92, 280.93(a), and R.61-92, 280.110(c) (2012 & Supp. 2018).

Summary: Shiv One, LLC (Individual/Entity), owns underground storage tanks located in Anderson, South Carolina. On May 16, 2019, the Department issued a Notice of Alleged Violation because the Individual/Entity had not demonstrated financial responsibility and had not submitted evidence of financial assurance for an underground storage tank system with the Department. The Individual/Entity has violated the SUPERB Act and the S.C. Underground Storage Tank Control Regulation as follows: failed to demonstrate financial responsibility for an underground storage tank system and failed to submit evidence of financial assurance to the Department upon request.

Action: The Individual/Entity is required to: submit a completed Certificate of Responsibility form and pay a civil penalty in the amount of eight hundred seventy dollars **(\$870.00)**.

11) Order Type and Number: Consent Order 19-0080-UST  
Order Date: September 27, 2019  
Individual/Entity: **Papa Oil, LLC**  
Facility: Corner Stop 52, 53, and 56  
Location: 22477 Hwy. 76 E., 700 Fleming St., 322 W. Main St. (respectively)  
Laurens, SC 29201, Clinton, SC 29325  
Mailing Address: 2055 Saint Andrews Court  
Franklin, IN 46131  
County: Laurens  
Previous Orders: None  
Permit/ID Number: 17226, 11062, and 17726  
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq.* (2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.65 (2018).

Summary: Papa Oil, LLC (Individual/Entity), owned underground storage tanks located in Laurens and Clinton, South Carolina, and is the responsible party of record for confirmed releases at the above referenced facilities. On June 29, 2018, and July 3, 2018, the Department issued a Notice of Alleged Violation because the Individual/Entity had not submitted a Site Specific Work Plan (SSWP) for a Tier I Assessment to the Department for Corner Stop 52 and 56. On February 14, 2019, the Department sent a certified letter requiring a SSWP for a Tier I Assessment be submitted for Corner Stop 52 and 56, and a SSWP for an Initial Groundwater Assessment (IGWA) be submitted for Corner Stop 53. The Individual/Entity has violated the SUPERB Act and 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 SSWPs for a Tier I Assessment for Corner Stop 52 and 56, and a SSWP for an IGWA for Corner Stop 53; upon the Department's

approval of the SSWPs, submit Tier I Assessment Reports for Corner Stop 52 and 56, and an IGWA Report for Corner Stop 53; and pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)**.

### **Solid Waste Enforcement**

12)     Order Type and Number:                     Administrative Order 19-10-SW  
          Order Date:                                 September 27, 2019  
          Individual/Entity:                     **Ladson Wood Recycling, LLC**  
          Facility:                                 Ladson Wood Recycling  
          Location:                                 9425 Highway 78  
   Ladson, SC 29456  
          Mailing Address:                     Same  
          County:                                 Charleston  
          Previous Orders:                     AO 17-32-SW (\$9,000.00)  
          Permit/ID Number:                     102745-3001  
          Violations Cited:                     Solid Waste Policy and Management Act (2002 and Supp. 2016) 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., E.15, H.3., and Part IV.A.6.a. (Supp. 2016), and Permit 102745-3001, A. General Conditions 1., 2., 3., and 4., and Operations and Maintenance Plan.

Summary: Ladson Wood Recycling, LLC (Individual/Entity), located in Ladson, South Carolina, is responsible for the proper operation and maintenance of a wood chipping facility. On October 12, 2018, and November 16, 2018, the Department sent letters via certified mail requiring a new financial assurance mechanism as there was no financial assurance on file with the Department. The Department conducted an inspection on October 17, 2018 and determined that the Facility was operating in excess of its permitted capacity as allowed by permit and was not operating in accordance with approved plans. The Individual/Entity has violated the Solid Waste Policy and Management Act, the Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, Regulation, and the Permit as follows: the Facility exceeded its permitted limit of unprocessed materials; failed to operate in accordance with approved plans and the Permit; and failed to provide financial assurance for the Facility.

Action: The Individual/Entity is required to: reduce the amount of unprocessed materials on-site to less than the permitted 6,667 cubic yards and operate in accordance with its approved site plan; and, pay a civil penalty in the amount of twenty-one thousand, nine hundred fifty dollars **(\$21,950.00)**.

- |     |                               |   |
|-----|-------------------------------|---|
| 13) | <u>Order Type and Number:</u> | Consent Order 19-18-SW  |
|     | <u>Order Date:</u>            | August 12, 2019   |
|     | <u>Individual/Entity:</u>     | <b>Price Construction, Inc.</b>   |
|     | <u>Facility:</u>              | TMS #2-33-01-008.01   |
|     | <u>Location:</u>              | 741 Jonas Circle<br>Chesnee, SC 29323   |
|     | <u>Mailing Address:</u>       | 3400 Chesnee Highway<br>Chesnee, SC 29323   |
|     | <u>County:</u>                | Spartanburg   |
|     | <u>Previous Orders:</u>       | None  |
|     | <u>Permit/ID Number:</u>      | N/A   |
|     | <u>Violations Cited:</u>      | South Carolina Solid Waste Policy and<br>Management Act of 1991, S.C. Code Ann. §§ 44-96-10 <u>et seq.</u> (2002 & Supp. 2016) and the<br>Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19<br>(2012); Part II.B.1. |

Summary: Price Construction, Inc. (Individual/Entity), located in Chesnee, South Carolina, operated a structural fill without a permit from the Department. On September 20, 2018, October 15, 2018, November 30, 2018, and January 15, 2019, the Department observed a drainage ravine partially filled with construction and demolition debris. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, as follows: disposed of land-clearing debris without first obtaining a permit from the Department to operate a structural fill.

**Action:** The Individual/Entity is required to: apply a minimum two-foot thick earth cover over the remaining construction and demolition debris and seed the finished surface with native grasses or other suitable ground cover; and pay a **suspended penalty** in the amount of three thousand, five hundred dollars **(\$3,500.00)** should the requirements of the Order not be met.

## Hazardous Waste Enforcement

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|-----|-------------------------------|--|
| 14) | <u>Order Type and Number:</u> | Consent Order 19-16-HW   |
|     | <u>Order Date:</u>            | August 8, 2019   |
|     | <u>Individual/Entity:</u>     | <b>TICO Manufacturing</b>  |
|     | <u>Facility:</u>              | TICO Manufacturing   |
|     | <u>Location:</u>              | 66 Cypress Ridge Drive<br>Ridgeland, SC 29936  |
|     | <u>Mailing Address:</u>       | Same   |
|     | <u>County:</u>                | Jasper   |
|     | <u>Previous Orders:</u>       | None   |
|     | <u>Permit/ID Number:</u>      | SCR 000 786 160  |
|     | <u>Violations Cited:</u>      | The South Carolina Hazardous Waste   |
|     |                               | Management Act, S.C. Code Ann. §§ 44-56-10 <u>et seq.</u> (2018), and the South Carolina |
|     |                               | Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and      |
|     |                               | Supp. 2018).   |



Summary: TICO Manufacturing (Individual/Entity) is a manufacturer of terminal tractors and related equipment for the port, intermodal, and distribution industry sectors at its facility located in Jasper, South Carolina. The Department received a voluntary disclosure on April 2, 2019. The Individual/Entity has violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to obtain and receive an EPA identification number from the Department by submitting DHEC Form 2701; failed to prepare manifests according to the instructions; failed to keep copies of signed manifests onsite for three (3) years from the date the waste was accepted by the transporter; failed to ensure employees were thoroughly familiar with proper hazardous waste handling and emergency procedures; failed to receive a copy of the manifest with the handwritten signature of the designated facility within sixty (60) days; and failed to declare its generator status annually.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of twelve thousand dollars **(\$12,000.00)**.

15)	<u>Order Type and Number:</u>	Consent Order 19-17-HW
	<u>Order Date:</u>	August 21, 2019
	<u>Individual/Entity:</u>	<b>Evrnu SPC</b>
	<u>Facility:</u>	Evrnu SPC
	<u>Location:</u>	555 East Suber Road Greer, SC 29385
	<u>Mailing Address:</u>	3200 1 <sup>st</sup> Avenue South 200 Seattle, WA
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	SCR 000 784 496
	<u>Violations Cited:</u>	The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 <u>et seq.</u> (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Evrnu SPC (Individual/Entity) is a materials innovation company offering a suite of technologies that transform textile waste into high quality fiber source used for textile creation. The Department conducted an inspection on May 14, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to accurately determine if waste was a hazardous waste; failed to keep records onsite of any test results, waste analyses, or other determinations for at least three years; failed to ensure that the date upon which each period of accumulation began was clearly marked and visible for inspection on each container; failed to ensure that while being accumulated onsite, each container was labeled or marked clearly with the EPA Hazardous Waste Number and the words: "Hazardous Waste – federal laws prohibit improper disposal"; failed to keep containers holding hazardous waste closed, except when necessary to add or remove waste; failed to clean up a hazardous waste discharge that occurred during generation; failed to maintain and operate the facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste; failed to ensure employees were thoroughly familiar with proper hazardous waste handling and emergency procedures; failed to inspect areas where hazardous waste containers are stored, at least weekly; failed to post the name and telephone number of the emergency coordinator along

with the location of the fire extinguishers and spill control material, and if present, fire alarms; and the telephone number of the fire department next to the telephone; and failed to declare its generator status annually.

Action: The Individual/Entity is required to: submit training certificates demonstrating employees have successfully completed a RCRA hazardous waste management course; submit hazardous and non-hazardous waste manifests and waste profiles for the disposal of all waste onsite; submit a Waste Management Plan (WMP) for the management of hazardous waste generated onsite; and pay a civil penalty in the amount of twelve thousand dollars **(\$12,000.00)**.

16)	<u>Order Type and Number:</u>	Consent Order 19-18-HW
	<u>Order Date:</u>	August 23, 2019
	<u>Individual/Entity:</u>	<b>Oak-Mitsui Inc.</b>
	<u>Facility:</u>	Oak-Mitsui Inc.
	<u>Location:</u>	29 Battleship Road Ext. Camden, SC 29020
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Kershaw
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	SCD 987 579 943
	<u>Violations Cited:</u>	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). South Carolina Solid Waste Management: Used Oil Regulations.

Summary: Oak-Mitsui Inc. (Individual/Entity) is a generator of hazardous waste located in Kershaw County, South Carolina. The Department conducted an inspection on February 28, 2019. The Individual/Entity violated The South Carolina Hazardous Waste Management Act and the South Carolina Hazardous Waste Management Regulations as follows: spent polypropylene filters were unlabeled and not in containers at the point of generation; several filter canisters were observed in an open, unlabeled container at the point of generation and several filters were observed on top of the sump trenches unlabeled, not in containers at the point of generation; six (6) filters were observed on top of a grated sump unlabeled, not containerized, and left to dry prior to being disposed of as a hazardous waste; a hopper containing hazardous waste sludge was open in the Wastewater Treatment Plant; in the Hazardous Waste building, waste was allowed to accumulate longer than 90 days; one box of fluorescent bulbs did not have an accumulation start date and was not labeled with one of the following phrases: "Universal Waste- Lamp(s)," or "Waste Lamps(s)," or "Used Lamp(s)"; two 250-gallon totes of used oil were not marked with the words "Used Oil" - one tote was open, the other had a small bucket placed in its opening; a sump contained standing liquid; weekly inspections were missing for the weeks between April 4, 2018 and April 16, 2018, and the weeks between January 9, 2019 and January 25, 2019; the contingency plan did not include the list of names, addresses, and phone numbers of all emergency coordinators; there was no documentation to describe the arrangements agreed to by emergency response teams to coordinate emergency services; there was no documentation to show that the contingency plan had been provided to all emergency response teams; and the job descriptions provided did not include a description for each position and the name of the individual filling that position nor did

it include the type and amount of both introductory and continual training that will be provided to each person filling that position. All violations have been corrected.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of eight thousand, two hundred dollars **(\$8,200.00)**.

17)     Order Type and Number:                     Consent Order 19-22-HW  
          Order Date:                                 September 27, 2019  
          Individual/Entity:                     **Ameresco Palmetto, LLC**  
          Facility:                                 Ameresco Palmetto LLC  
          Location:                                 251 New Hope Road  
   Wellford, SC 29385  
          Mailing Address:                     30 Danforth Street, Suite 108  
   Portland, ME 04101  
          County:                                 Spartanburg  
          Previous Orders:                     None  
          Permit/ID Number:                     SCR 000 783 787  
          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). South Carolina Solid Waste Management: Used Oil Regulations.

Summary: Ameresco Palmetto, LLC (Individual/Entity) is a generator of hazardous waste and is located in Spartanburg County, South Carolina. The Department conducted an inspection on April 1, 2019. The Individual/Entity violated the Hazardous Waste Management Regulations as follows: failed to manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment; failed to ensure that each lamp or container or package in which such lamps are contained are labeled or marked clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)"; failed to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received; failed to maintain a secondary containment system that provides a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within twenty-four (24) hours, or at the earliest practicable time if the existing detection technology or site conditions will not allow detection of a release within twenty-four (24) hours; failed to maintain a secondary containment systems that is sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four (24) hours, or in as timely a manner as is possible to prevent harm to human health or the environment; failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on the storage tank; failed to ensure that while being accumulated onsite, each container and tank is labeled or marked clearly with the EPA Hazardous Waste Number and the words: "Hazardous Waste—federal laws prohibit improper disposal"; failed to record inspections in an inspection log or summary, and keep such records at the facility for at least three (3) years from the date of inspection; failed to inspect overfill/spill control equipment to ensure that it is in good working order; failed to inspect the above ground portions of the tank system to detect corrosion or releases of waste; failed to inspect the

construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of releases of hazardous waste; failed to inspect tank ancillary equipment that is not provided with secondary containment at least once each operating day; failed to immediately stop the flow or addition of hazardous waste into the tank system or secondary containment system from which there had been a leak or spill and inspect the system to determine the cause of the release; failed to report to the Department within twenty-four hours of detection of any release to the environment from a tank system or secondary containment system from which there has been a leak or spill; failed to submit a report to the Department within thirty days of detection of a release to the environment; failed to ensure that facility personnel take part in an annual review of the initial training; failed to include in the contingency plan a description of the arrangements with emergency response teams to coordinate emergency services; failed to list in the contingency plan the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator; failed to include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary; failed to submit a copy of the contingency plan; failed to maintain the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job and a written job description for each position; and failed to ensure that containers and aboveground tanks used to store used oil at generator facilities are labeled or marked clearly with the words "Used Oil."

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

18)	<u>Order Type and Number:</u>	Consent Order 19-19-HW
	<u>Order Date:</u>	September 4, 2019
	<u>Individual/Entity:</u>	<b>Koppers, Inc.</b>
	<u>Facility:</u>	Koppers, Inc.
	<u>Location:</u>	280 North Koppers Road Florence, SC 29504
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	14-14-HW (\$3,300.00)
	<u>Permit/ID Number:</u>	SCD 003 353 026
	<u>Violations Cited:</u>	The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 <u>et seq.</u> (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Koppers, Inc. (Individual/Entity) pressure treats wood products (railroad crossties) at its facility located at 280 North Koppers Road, Florence, South Carolina. The Department conducted an inspection on April 12, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to ensure drip pads have a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second and that the surface material be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity; failed to maintain drip pads such that they would remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad; failed to label each container with the appropriate EPA Hazardous

Waste Number(s); failed to file a revised or new Notification Form with the Department whenever the information previously provided became outdated or inaccurate; failed to record inspections in an inspection log or summary, and keep such records at the facility for at least three years from the date of inspection; failed to inspect weekly and after storms while in operation, a drip pad to detect evidence of deterioration or cracking of the drip pad's surface; failed to described the arrangements agreed to by emergency response teams in the contingency plan; failed to submit a copy of the contingency plan; and failed to a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility.

Action: The Individual/Entity is required to: submit to the Department for review, job descriptions that include a written description of the type and amount of both introductory and continuing training that would be given to each person filling a position at the facility related to hazardous waste management; and pay a civil penalty in the amount of seven thousand dollars **(\$7,000.00)**.

19)	<u>Order Type and Number:</u>	Consent Order 19-20-HW
	<u>Order Date:</u>	September 11, 2019
	<u>Individual/Entity:</u>	<b>McFarland Cascade Holdings, Inc.</b>
	<u>Facility:</u>	McFarland Cascade Holdings, Inc.
	<u>Location:</u>	1121 Delta Road Whitmire, SC 29178
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Union
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	SCD 982 134 546
	<u>Violations Cited:</u>	The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 <u>et seq.</u> (2018), the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018), the South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §44-96-10 (2002), and the South Carolina Solid Waste Management: Used Oil Regulations, 8 S.C. Code Ann. Regs. 61-107.279 (2016)

Summary: McFarland Cascade Holdings, Inc. (Individual/Entity) manufactures and distributes pressure treated wood products (poles) at its facility located at 1121 Delta Road, Whitmire, South Carolina. The Department conducted an inspection on March 7, 2019. The Individual/Entity has violated the South Carolina Hazardous Waste Management Act, the Hazardous Waste Management Regulations, the South Carolina Solid Waste Policy and Management Act, and the Used Oil Regulations as follows: failed to mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating; failed to keep containers holding hazardous waste closed, except when necessary to add or remove waste; failed to ensure drip pads have a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second and that the surface material be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity; failed to maintain drip pads such that they would remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad; failed to obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified Professional Engineer that attests to the results of the evaluation, and the assessment must be reviewed, updated and recertified annually; failed to ensure the drip pad

surface be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, so as to allow weekly inspections of the entire drip pad surface; failed to ensure that after being removed from the treatment vessel, treated wood from pressure and non-pressure processes be held on the drip pad until drippage has ceased; failed to inspect weekly and after storms while in operation, a drip pad to detect evidence of deterioration or cracking of the drip pad's surface; failed to maintain lamps in a manner to prevent a release and to keep such containers closed; failed to label or mark clearly each container of universal lamps; failed to demonstrate the length of time universal waste had been accumulated from the date it became a waste; and failed to discard or otherwise dispose of used oil, except by delivery to a used oil collection facility, used oil energy recovery facility, oil recycling facility, or to an authorized agent for delivery to a used oil collection facility, used oil energy recovery facility, or oil recycling facility.

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

20)	<u>Order Type and Number:</u>	Consent Order 19-24-HW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Roy Metal Finishing Company, Inc</b>
	<u>Facility:</u>	Roy Metal Finishing Company, Inc (RMF)
	<u>Location:</u>	112 Conestee Road Conestee, SC 29636
	<u>Mailing Address:</u>	P.O. Box 38 Conestee, SC 29636
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	SCD 003 341 849
	<u>Violations Cited:</u>	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: Roy Metal Finishing Company, Inc (Individual/Entity) is a generator of hazardous waste and is located in Greenville County, South Carolina. The Department conducted an inspection March 26, 2019. The Individual/Entity has violated the Hazardous Waste Management Regulations as follows: failed to accurately determine if waste was a hazardous waste; failed to clean up any hazardous waste discharge that occurred during generation, processing or storage; failed to maintain and operate the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, failed to have all containers holding hazardous waste closed, except when necessary to add or remove waste; failed to mark containers either with the words: "Hazardous Waste" or with other words that identified the contents of the container; failed to ensure that each lamp or a container or package in which such lamps are contained are labeled or marked clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)"; failed to manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment; failed to ensure that universal waste mercury-containing equipment (i.e., each device), or a container in which the equipment is contained, was labeled or marked clearly with any of the

following phrases: "Universal Waste – Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment"; failed to manage mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment; failed to ensure that containers and aboveground tanks used to store used oil at generator facilities are labeled or marked clearly with the words "Used Oil"; and failed to ensure that containers and aboveground tanks used to store used oil at generator facilities are closed to prevent spillage or contamination from precipitation.

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

### **Mining Enforcement**

21)     Order Type and Number:                     Consent Order 19-06-MSWM  
          Order Date:                                 August 30, 2019  
          Individual/Entity:                         **Alford & Company**  
          Facility:                                     Alford Mine  
          Location:                                   Intersection of S-26-45 and S-26-476  
  in Loris, SC  
          Mailing Address:                         1866 Highway 45  
  Loris, SC 29569  
          County:                                     Horry  
          Previous Orders:                           None  
          Permit/ID Number:                     GP1-001476  
          Violations Cited:                       South Carolina Mining Act S.C. Code Ann. 48-20-10 et seq. (Rev. 2008); South Carolina Mining Regulation (Supp. 2012), R.89-20, and Permit GP1-001476, Section III., Part A.8., Section IV., Part B.2., and Section V., Part G.

Summary: Alford & Company (Individual/Entity), operates a mine near Loris, South Carolina. On January 23, 2018, the Department conducted an inspection and noted the following on the Inspection Form: an area greater than five (5) acres had been disturbed, operating without an NPDES permit, and operating without a certification of consistency. The Individual/Entity has violated the South Carolina Mining Act, and the South Carolina Mining Regulation as follows: failed to obtain an NPDES permit from the Department prior to initiating any activity at the Site; failed to obtain a certification of consistency with the Coastal Zone Management Program; and disturbed an area greater than five (5) acres.

Action: The Individual/Entity is required to: cease all mining activity other than completing reclamation of the Site; and pay a civil penalty in the amount of six hundred dollars **(\$600.00)**.

22)     Order Type and Number:                     Consent Order 19-08-MSWM  
          Order Date:                                 September 27, 2019  
          Individual/Entity:                     **Buddy Clawson Construction, Inc.**  
          Facility:                                 Clawson Mine  
          Location:                                 Intersection of S-46-165 and McConnells Hwy.  
  in McConnells, SC  
          Mailing Address:                     425 Brattonsville Road  
  McConnells, SC 29726  
  
          County:                                 York  
          Previous Orders:                     None  
          Permit/ID Number:                 GP1-001965  
          Violations Cited:                     South Carolina Mining Act S.C. Code Ann. 48-20-  
  10 et seq. (Rev. 2008); South Carolina Mining Regulation (Supp. 2012), R.89-20, and Permit  
  GP1-001965, Section IV., Part B.2., Section IV., Part B.8., and Section V., Part G.

Summary: Buddy Clawson Construction, Inc. (Individual/Entity), operates a mine near McConnells, South Carolina. On August 10, 2017, and August 11, 2018, the Department conducted inspections. The Individual/Entity has violated the South Carolina Mining Act, and the South Carolina Mining Regulation as follows: failed to obtain an NPDES permit from the Department prior to initiating any activity at the Site and disturbed an area greater than five (5) acres with highwalls greater than ten (10) feet.

Action: The Individual/Entity is required to: cease all mining activity outside of the original footprint until such time as an Individual Mining permit is issued and effective; obtain an Individual Mining permit or begin reclamation of unpermitted area; and pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)**.

## **BUREAU OF WATER**

### **Recreational Waters Enforcement**

23)     Order Type and Number:                     Consent Order 19-066-RW  
          Order Date:                                 August 1, 2019  
          Individual/Entity:                     **Florence Country Club, Inc.**  
          Facility:                                 Florence Country Club  
          Location:                                 450 Country Club Boulevard  
  Florence, SC 29501  
  
          Mailing Address:                     Same  
          County:                                 Florence  
          Previous Orders:                     None  
          Permit/ID Number:                 21-128-1 & 21-129-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Florence Country Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On June 5, 2019, and July 12, 2019,



the pool and kiddie pool were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; the pool floor was not clean; the pool furniture was not at least four feet from the edge of the pool; there was debris in the skimmer baskets; there was no drinking water fountain; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring was deteriorated and did not have a permanently attached rope; the shepherd's crook was missing a bolt; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

24)	<u>Order Type and Number:</u>	Consent Order 19-067-RW
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Ingleside Plantation Apartments, LP</b>
	<u>Facility:</u>	Ingleside Plantation
	<u>Location:</u>	9245 Blue House Road Charleston, SC 29423
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-1160B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Ingleside Plantation Apartments, LP (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 3, 2019, the pool 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: a ladder was not tight and secure; a ladder was missing bumpers; a skimmer was missing a weir; the bound and numbered log book was not maintained on a daily basis; and, the chlorine level was not within the acceptable range of water quality standards.

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

25)	<u>Order Type and Number:</u>	Consent Order 19-068-RW
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	Retro Hotel Waikiki 1, LLC
	<u>Facility:</u>	Waikiki Village
	<u>Location:</u>	1500 South Ocean Boulevard Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	P.O. Box 11803 Columbia, SC 29211
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	26-109-1 & 26-M07-1

Violations Cited:

S.C. Code Ann. Regs. 61-51(J)

Summary: Retro Hotel Waikiki 1, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On May 31, 2019, and June 21, 2019, the pool and spa were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline was not in place on the first inspection, and the lifeline floats were not properly spaced on the second inspection; a ladder was not tight and secure; the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording; the bound and numbered log book was not available for review on the first inspection, and was not maintained on a daily basis on the second inspection; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the spa temperature was too high.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

26)	<u>Order Type and Number:</u>	Consent Order 19-069-RW
	<u>Order Date:</u>	August 6, 2019
	<u>Individual/Entity:</u>	<b>Gateway Fort Mill, LLC</b>
	<u>Facility:</u>	Willows at Fort Mill
	<u>Location:</u>	3115 Drewsky Lane Fort Mill, SC 29715
	<u>Mailing Address:</u>	6701 Carmel Road, Suite 118 Charlotte, NC 28226
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-1132B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Gateway Fort Mill, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 6, 2019, and July 11, 2019, the pool 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: there was debris in the skimmer baskets; there was no foot rinse shower; the current pool operator of record information was not posted to the public; the pool walls were not clean; a skimmer was missing a weir; the gate did not self-close and latch; the life ring did not have a permanently attached rope; the pool rules sign was not completely filled out; the log book was not available for review on the first inspection; and, the log book was not bound and numbered, was not maintained on a daily basis, and was not maintained a minimum of three times per week by the pool operator of record on the second inspection.

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

27)	<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/ID Number:</u> <u>Violations Cited:</u>	Consent Order 19-070-RW August 5, 2019 <b>BNH Stonecrest I, Inc.</b> Stonecrest Subdivision Welchel Road Gaffney, SC 29340 151 Bridgepoint Drive Duncan, SC 29334 Cherokee None 11-1012B S.C. Code Ann. Regs. 61-51(J)
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Summary: BNH Stonecrest I, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 21, 2019, and July 16, 2019, the pool 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 bathrooms did not have toilet paper, soap, paper towels, or a hand dryer; the chlorine level was not within the acceptable range of water quality standards; the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording; and, the cyanuric acid levels were not recorded in the bound and numbered log book on a weekly basis.

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

28)	<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/ID Number:</u> <u>Violations Cited:</u>	Consent Order 19-071-RW August 5, 2019 <b>Monterey Bay Suites Resort Homeowners Association, Inc.</b> Monterey Bay Suites 6804 North Ocean Boulevard Myrtle Beach, SC 29572 Same Horry None 26-K46-1 & 26-K48-1 S.C. Code Ann. Regs. 61-51(J)
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Summary: Monterey Bay Suites Resort Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of two spas. On June 4, 2019, and June 21, 2019, the spas were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards; the log book was not properly bound or numbered; the foot rinse shower was not operating properly; and, there was no drinking water fountain.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

29)     Order Type and Number:                     Consent Order 19-072-RW  
          Order Date:                                 August 5, 2019  
          Individual/Entity:                         **Palmwood Villas Homeowners  
  Association, Inc.**  
          Facility:                                     Palmwood Villas  
          Location:                                   2405 South Ocean Boulevard  
  North Myrtle Beach, SC 29582  
          Mailing Address:                         18324 Rustic Hollow  
  Strongsville, OH 44136  
          County:                                     Horry  
          Previous Orders:                           None  
          Permit/ID Number:                     26-612-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: Palmwood Villas Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 12, 2019, and June 28, 2019, the pool 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 pool equipment room was not locked; a gate did not self-close and latch; only one "Shallow Water – No Diving Allowed" sign was posted; and, only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted.

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

30)     Order Type and Number:                     Consent Order 19-073-RW  
          Order Date:                                 August 12, 2019  
          Individual/Entity:                         **Lake City Country Club**  
          Facility:                                     Lake City Country Club  
          Location:                                   140 South Country Club Road  
  Lake City, SC 29560  
          Mailing Address:                         Same  
          County:                                     Florence  
          Previous Orders:                           18-023-RW (\$680.00);  
  19-019-RW (\$1,360.00)  
          Permit/ID Number:                     21-042-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: Lake City Country Club (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2019, and July 16, 2019, the pool 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 pool floor and walls were dirty; parts from an old diving board created a trip hazard on the pool deck; skimmer baskets were not in place;

the bathrooms did not have toilet paper, soap, paper towels or a hand dryer; the drinking water fountain and foot rinse shower were not operating properly; the pool equipment room was not locked; the annual operating fee had not been paid; the gate did not self-close and latch; a section of the perimeter fencing was broken and had openings greater than four inches; there was no United States Coast Guard approved life ring; there was no shepherd's crook; the "Shallow Water – No Diving Allowed" signs were missing; the current pool operator of record information was not posted to the public; the bound and numbered log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record; and, the lifeline floats were not properly spaced.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, seven hundred twenty dollars **(\$2,720.00)**. The civil penalty has been paid.

31)	<u>Order Type and Number:</u>	Consent Order 19-074-RW
	<u>Order Date:</u>	August 9, 2019
	<u>Individual/Entity:</u>	<b>Charleston Ingleside II, LLC</b>
	<u>Facility:</u>	Cypress River Apartments
	<u>Location:</u>	9325 Blue House Road North Charleston, SC 29406
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-1229B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Charleston Ingleside II, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 3, 2019, the pool 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: a ladder was missing bumpers; a skimmer was missing a weir; the pH level was not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; and, only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted.

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

32)	<u>Order Type and Number:</u>	Consent Order 19-075-RW
	<u>Order Date:</u>	August 12, 2019
	<u>Individual/Entity:</u>	<b>Stratford Hall Homeowners Associates, Inc.</b>
	<u>Facility:</u>	Stratford Hall
	<u>Location:</u>	312 Sessions Drive Aiken, SC 29803
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-100-1

Violations Cited:

S.C. Code Ann. Regs. 61-51(J)

Summary: Stratford Hall Homeowners Associates, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 11, 2019, the pool 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 lifeline floats were not properly spaced; the deck depth marker tiles did not have a non-slip finish; a skimmer was missing a weir; and, the bound and numbered log book was not maintained on a daily basis.

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

33)     Order Type and Number:                     Consent Order 19-076-RW  
          Order Date:                                 August 13, 2019  
          Individual/Entity:                         **Liberty Senior Living Properties of Mt. Pleasant, LLC**  
          Facility:                                     South Bay CCRC  
          Location:                                  1400 Liberty Midtown Drive, Suite 420  
  Mount Pleasant, SC 29464  
          Mailing Address:                         Same  
          County:                                     Charleston  
          Previous Orders:                         None  
          Permit/ID Number:                     10-1324D  
          Violations Cited:                         S.C. Code Ann. Regs. 61-51(J)

Summary: Liberty Senior Living Properties of Mt. Pleasant, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 3, 2019, and July 5, 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 chlorine and pH levels were not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

34)     Order Type and Number:                     Consent Order 19-077-RW  
          Order Date:                                 August 13, 2019  
          Individual/Entity:                         **Concord Clear Springs Hotel, LLC**  
          Facility:                                     Courtyard by Marriott  
          Location:                                  1385 Broadcloth Street  
  Fort Mill, SC 29715  
          Mailing Address:                         Same  
          County:                                     York  
          Previous Orders:                         None  
          Permit/ID Number:                     46-1166B

S.C. Code Ann. Regs. 61-51(J)

Summary: Concord Clear Springs Hotel, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 2, 2019, the pool 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: a ladder was missing bumpers; there was no foot rinse shower; the chlorine and pH levels were not within the acceptable range of water quality standards; and, a ladder was not tight and secure.

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

35)	<u>Order Type and Number:</u>	Consent Order 19-078-RW
	<u>Order Date:</u>	August 15, 2019
	<u>Individual/Entity:</u>	<b>Shree Dutt-Hartsville, LLC</b>
	<u>Facility:</u>	Quality Inn
	<u>Location:</u>	903 South Fifth Street Hartsville, SC 29550
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	18-236-RW (\$680.00)
	<u>Permit/ID Number:</u>	16-020-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Shree Dutt-Hartsville, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 18, 2019, and July 22, 2019, the pool 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: a ladder was missing bumpers; the chlorine level was not within the acceptable range of water quality standards; the shepherd's crook was missing a bolt and the pole was broken during the first inspection, and the shepherd's crook was attached to a telescoping pole during the second inspection; only one "Shallow Water - No Diving Allowed" sign was posted; only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted; the bound and numbered log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record; the cyanuric acid level was not checked weekly; and, the life ring rope was not the required length.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars (**\$1,360.00**).

36)	<u>Order Type and Number:</u>	Consent Order 19-079-RW
	<u>Order Date:</u>	August 15, 2019
	<u>Individual/Entity:</u>	<b>Tahitian Princess Property Owners Association, Inc.</b>
	<u>Facility:</u>	Tahitian Princess
	<u>Location:</u>	3300 South Ocean Boulevard North Myrtle Beach, SC 29582

<u>Mailing Address:</u>	Same
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	26-1293C
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Tahitian Princess Property Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a kiddie pool. On May 28, 2019, and June 21, 2019, the kiddie pool 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: a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; the main drain grates were not in place; the pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; the kiddie pool floor and walls were dirty; the plaster on the kiddie pool floor was delaminated; and, there was debris in the skimmer baskets.

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

37)	<u>Order Type and Number:</u>	Consent Order 19-080-RW
	<u>Order Date:</u>	August 15, 2019
	<u>Individual/Entity:</u>	<b>173 Meeting Street Inn Limited Partnership</b>
	<u>Facility:</u>	Meeting Street Inn
	<u>Location:</u>	173 Meeting Street Charleston, SC 29401
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-209-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: 173 Meeting Street Inn Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 30, 2019, and July 11, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted, and the sign posted did not have the correct wording; and, the bound and numbered log book was not maintained on a daily basis.

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



38)     Order Type and Number:                     Consent Order 19-081-RW  
          Order Date:                                 August 15, 2019  
          Individual/Entity:                     **Brayden Owners Association, Inc.**  
          Facility:                                 Brayden Subdivision  
          Location:                                 2300 Highway 160 West  
   Fort Mill, SC 29715  
  
          Mailing Address:                     Same  
          County:                                 York  
          Previous Orders:                     None  
          Permit/ID Number:                 46-1158B & 46-1159C  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Brayden Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On May 29, 2019, and July 2, 2019, the pool and kiddie pool were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the skimmer baskets were floating; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; the bound and numbered log book was not available for review; the pump room was not accessible; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the cyanuric acid level was above the water quality standards acceptable limit.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

39)     Order Type and Number:                     Consent Order 19-082-RW  
          Order Date:                                 August 19, 2019  
          Individual/Entity:                     **Cloisters Capital, LLC**  
          Facility:                                 The Cloister Apartments  
          Location:                                 962 67<sup>th</sup> Avenue North  
   Myrtle Beach, SC 29577  
  
          Mailing Address:                     1511 Coastal Lane, Suite 111  
   Myrtle Beach, SC 29577  
  
          County:                                 Horry  
          Previous Orders:                     None  
          Permit/ID Number:                 26-K65-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Cloisters Capital, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 21, 2019, and June 24, 2019, the pool was inspected, and a violation was issued for failure to properly operate and maintain; and, on June 24, 2019, the pool was inspected, and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the plaster on the pool floor was delaminated; the gate did not self-close and latch; the pH level was not within the acceptable range of water quality standards; the emergency notification device was

not operating; the bound and numbered log book was not maintained on a daily basis; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, twenty dollars **(\$1,020.00)**. The civil penalty has been paid.

40)     Order Type and Number:                     Consent Order 19-083-RW  
          Order Date:                                 August 15, 2019  
          Individual/Entity:                         **YMCA of Greenville**  
          Facility:                                     GHS YMCA  
          Location:                                   550 Brookwood Point Place  
  Simpsonville, SC 29681  
  
          Mailing Address:                         Same  
          County:                                     Greenville  
          Previous Orders:                         None  
          Permit/ID Number:                     23-1199B  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J)

Summary: YMCA of Greenville (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On March 29, 2019, June 7, 2019, and June 26, 2019, the pool 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 lifeline was not in place; the drinking water fountain was not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; there was no life ring; there was no shepherd's crook; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the current pool operator of record information was not posted to the public.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, forty dollars **(\$2,040.00)**.

41)     Order Type and Number:                     Consent Order 19-084-RW  
          Order Date:                                 August 19, 2019  
          Individual/Entity:                         **Met Property Holdings, LLC**  
          Facility:                                     The Park at Sorrento  
          Location:                                   650 Halton Road  
  Greenville, SC 29607  
  
          Mailing Address:                         3917 Riga Boulevard  
  Tampa, FL 33619  
  
          County:                                     Greenville  
          Previous Orders:                         None  
          Permit/ID Number:                     23-292-1  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Met Property Holdings, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2019, and July 15, 2019, the pool was

inspected, and a violation was issued for failure to properly operate and maintain; and, on July 15, 2019, the pool was inspected, and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the drinking water fountain was not operating; the gate did not self-close and latch; the pH level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the shepherd's crook was missing a bolt; the emergency notification device was not operating; the bound and numbered log book was not maintained on a daily basis; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, twenty dollars **(\$1,020.00)**. The civil penalty has been paid.

42)	<u>Order Type and Number:</u>	Consent Order 19-085-RW
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Hartsville CC, LLC</b>
	<u>Facility:</u>	Hartsville Country Club
	<u>Location:</u>	116 Golf Course Road Hartsville, SC 29550
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	16-1001B & 16-1003C
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hartsville CC, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On June 18, 2019, and July 16, 2019, the pool and kiddie pool were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: depth marker tiles were faded; the drinking water fountain was not operating; the foot rinse shower was not operating; the gate did not self-close and latch; the main drain grates were broken; the life ring rope was too short; the shepherd's crook was missing a bolt; the emergency notification device was not operating; the pool rules sign was obstructed and faded; the chlorine and pH levels were not within the acceptable range of water quality standards; a waterline tile was broken; the pool furniture was not at least four feet from the edge of the pool and kiddie pool; the bathrooms did not have paper towels; and, the cyanuric acid level was not checked weekly.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

43)	<u>Order Type and Number:</u>	Consent Order 19-086-RW
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Market Pavilion Hotel, Inc.</b>
	<u>Facility:</u>	Market Pavilion Hotel
	<u>Location:</u>	225 East Bay Street Charleston, SC 29401
	<u>Mailing Address:</u>	Same

<u>County:</u>	Charleston
<u>Previous Orders:</u>	17-004-RW (\$680.00)
<u>Permit/ID Number:</u>	10-638-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Market Pavilion Hotel, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 29, 2019, and July 8, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; there was no shepherd's crook; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

44) <u>Order Type and Number:</u>	Consent Order 19-087-RW
<u>Order Date:</u>	August 19, 2019
<u>Individual/Entity:</u>	<b>PHG Greenville, LLC</b>
<u>Facility:</u>	Homewood Suites
<u>Location:</u>	950 South Main Street Greenville, SC 29601
<u>Mailing Address:</u>	Same
<u>County:</u>	Greenville
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	23-1286B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: PHG Greenville, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 18, 2019, and July 22, 2019, the pool 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 gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the current pool operator of record information was not posted to the public; the facility could not produce current valid documentation of pool operator certification; the log book was not properly bound or numbered on the first inspection; and, the bound and numbered log book was not maintained on a daily basis and was not maintained at least three times a week by the pool operator of record on the second inspection.

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

45)     Order Type and Number:                     Consent Order 19-088-RW  
          Order Date:                                 August 20, 2019  
          Individual/Entity:                       **M & M Hotel Investments, LLC**  
          Facility:                                   Days Inn Charleston Historic District  
          Location:                                  155 Meeting Street  
  Charleston, SC 29401  
  
          Mailing Address:                         Same  
          County:                                    Charleston  
          Previous Orders:                         None  
          Permit/ID Number:                     10-012-1  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J)

Summary: M & M Hotel Investments, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 30, 2019, and July 11, 2019, the pool 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: a ladder was not tight and secure; the gate did not self-close and latch; the emergency notification device was not operational; the pool rules sign was not completely filled out; only one "Shallow Water – No Diving Allowed" sign was posted; there were no "No Lifeguard On Duty - Swim At Your Own Risk" signs posted; the current pool operator of record information was not posted to the public; the bound and numbered log book was not maintained on a daily basis; and, the lifeline was in disrepair.

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

46)     Order Type and Number:                     Consent Order 19-089-RW  
          Order Date:                                 August 20, 2019  
          Individual/Entity:                       **Rebashares Development Company, LLC**  
          Facility:                                   Coral Reef  
          Location:                                  12 Valencia Road  
  Hilton Head Island, SC 29928  
  
          Mailing Address:                         P.O. Box 5310  
  Hilton Head Island, SC 29938  
  
          County:                                    Beaufort  
          Previous Orders:                         None  
          Permit/ID Number:                     07-483-1  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J)

Summary: Rebashares Development Company, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On May 23, 2019, and June 25, 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: a skimmer was missing a weir; the foot rinse shower was not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record.

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

47)     Order Type and Number:                     Consent Order 19-090-RW  
          Order Date:                                 August 20, 2019  
          Individual/Entity:                         **Kilgore Plantation Homeowner's Association, Inc.**  
  
          Facility:                                     Kilgore Plantation  
          Location:                                   1 Archers Place  
  Simpsonville, SC 29681  
  
          Mailing Address:                         412 East Butler Road  
  Mauldin, SC 29662  
  
          County:                                     Greenville  
          Previous Orders:                           None  
          Permit/ID Number:                     23-349-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: Kilgore Plantation Homeowner's Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 28, 2019, and July 22, 2019, the pool 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: there were cracked floats on the lifeline; a depth marker tile was missing; there was debris in the skimmer baskets; a handrail was not anchored into the bottom step; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

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

48)     Order Type and Number:                     Consent Order 19-091-RW  
          Order Date:                                 August 22, 2019  
          Individual/Entity:                         **P&G Hospitality, Inc.**  
          Facility:                                     Econo Lodge  
          Location:                                   3986 Byrnes Drive  
  Saint Stephens, SC 29479  
  
          Mailing Address:                         P.O. Box 999  
  Saint Stephens, SC 29479  
  
          County:                                     Berkeley  
          Previous Orders:                           16-004-RW (\$340.00)  
          Permit/ID Number:                     08-078-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: P&G Hospitality, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 17, 2019, and July 17, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; the bound and numbered

log book was not approved; the cyanuric acid level was above the water quality standards acceptable limit; and, only one "Shallow Water – No Diving Allowed" sign was posted.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

49)     Order Type and Number:                     Consent Order 19-092-RW  
          Order Date:                                 August 21, 2019  
          Individual/Entity:                         **LCOF Myrtle Beach Investment, LLC**  
          Facility:                                     Best Western Grand Strand  
          Location:                                    1804 South Ocean Boulevard  
  Myrtle Beach, SC 29577  
          Mailing Address:                         Same  
          County:                                     Horry  
          Previous Orders:                         None  
          Permit/ID Number:                     26-1072D  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: LCOF Myrtle Beach Investment, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 24, 2019, and July 24, 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: a handrail was not tight and secure; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the main drain grates were broken; and, the spa temperature was too high.

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

50)     Order Type and Number:                     Consent Order 19-093-RW  
          Order Date:                                 August 22, 2019  
          Individual/Entity:                         **Middlecreek Homeowners' Association, Inc.**  
          Facility:                                     Middlecreek  
          Location:                                    325 Shefwood Drive  
  Easley, SC 29642  
          Mailing Address:                         Same  
          County:                                     Pickens  
          Previous Orders:                         None  
          Permit/ID Number:                     39-043-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: Middlecreek Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 6, 2019, and July 8, 2019, the pool 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 foot rinse shower was missing; the chlorine level was not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; and, only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted.

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

51)	<u>Order Type and Number:</u>	Consent Order 19-094-RW
	<u>Order Date:</u>	August 23, 2019
	<u>Individual/Entity:</u>	<b>G6 Hospitality, LLC</b>
	<u>Facility:</u>	Motel 6 #190
	<u>Location:</u>	2058 Savannah Highway Charleston, SC 29407
	<u>Mailing Address:</u>	4001 International Parkway Carrollton, TX 75007
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	16-327-RW (\$680.00)
	<u>Permit/ID Number:</u>	10-108-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: G6 Hospitality, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 12, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; there was no pool rules sign; there were no "Shallow Water – No Diving Allowed" signs posted; there were no "No Lifeguard On Duty – Swim At Your Own Risk" signs posted; the current pool operator of record information was not posted to the public; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

52)	<u>Order Type and Number:</u>	Consent Order 19-095-RW
	<u>Order Date:</u>	August 22, 2019
	<u>Individual/Entity:</u>	<b>The Inn at Middleton Place, LLC</b>
	<u>Facility:</u>	Middleton Inn
	<u>Location:</u>	4290 Ashley River Road Charleston, SC 29414
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Dorchester
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	18-058-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)



Summary: The Inn at Middleton Place, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2019, and July 15, 2019, the pool 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: tiles were missing on the pool wall; a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the emergency notification device was not approved.

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

53)	<u>Order Type and Number:</u>	Consent Order 19-096-RW
	<u>Order Date:</u>	August 22, 2019
	<u>Individual/Entity:</u>	<b>Hallmark-Steeplechase, LLC</b>
	<u>Facility:</u>	Steeplechase Apartments
	<u>Location:</u>	Silver Bluff Road Aiken, SC 29802
	<u>Mailing Address:</u>	3111 Paces Mill Road, Suite A250 Atlanta, GA 30339
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-041-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hallmark-Steeplechase, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 4, 2019, and July 15, 2019, the pool 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 lifeline floats were not properly spaced; a handrail was not tight and secure; a ladder was missing bumpers; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was in disrepair and was not legible; and, the bound and numbered log book was not available for review.

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

54)	<u>Order Type and Number:</u>	Consent Order 19-097-RW
	<u>Order Date:</u>	August 22, 2019
	<u>Individual/Entity:</u>	<b>Waterway South Owners Association, Inc.</b>
	<u>Facility:</u>	Waterway South
	<u>Location:</u>	170 River Breeze Drive Charleston, SC 29407
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	14-166-DW (\$800.00) & 18-202-RW (\$680.00)

Permit/ID Number: 10-327-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Waterway South Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 11, 2019, the pool 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 pH level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the pool rules sign was not completely filled out; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, seven hundred twenty dollars **(\$2,720.00)**.

55) Order Type and Number: Consent Order 19-098-RW  
Order Date: August 22, 2019  
Individual/Entity: **The Mark at Dorchester, LP**  
Facility: Arbor Village Apartments  
Location: 10825 Dorchester Road  
Summerville, SC 29485  
Mailing Address: Same  
County: Dorchester  
Previous Orders: None  
Permit/ID Number: 18-1054B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: The Mark at Dorchester, L.P. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 28, 2019, and June 21, 2019, the pool 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 life ring did not have a permanently attached rope; the pool rules sign did not have all of the required rules; and, the "Shallow Water – No Diving Allowed" signs and the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording.

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

56) Order Type and Number: Consent Order 19-099-RW  
Order Date: August 22, 2019  
Individual/Entity: **UMANG Properties, LLC**  
Facility: Country Inn & Suites Orangeburg  
Location: 731 Citadel Road  
Orangeburg, SC 29118  
Mailing Address: Same  
County: Orangeburg  
Previous Orders: None

Permit/ID Number: 38-1008B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: UMANG Properties, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On March 7, 2019, and July 13, 2019, the pool 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 plaster on the pool floor was delaminated, chipped, and had sharp edges; the water level was too low; skimmers were missing weirs; the life ring was not in its designated location; the shepherd's crook was not in its designated location; the facility address was not posted at the emergency notification device; the pool rules sign was not legible; and, the bound and numbered log book was not available for review on the first inspection, and was not maintained on a daily basis on the second inspection.

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

57) Order Type and Number: Consent Order 19-100-RW  
Order Date: August 22, 2019  
Individual/Entity: **Thornblade Club, Inc.**  
Facility: Thornblade Country Club  
Location: 1275 Thornblade Boulevard  
Greer, SC 29650  
Mailing Address: Same  
County: Greenville  
Previous Orders: None  
Permit/ID Number: 23-355-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Thornblade Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2019, and July 17, 2019, the pool 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 lifeline floats were cracked and were not properly spaced; a handrail was not tight and secure; a ladder was not tight and secure; a ladder was missing bumpers; a ladder was missing non-slip tread inserts; there was a leak in the pool equipment room; there was no drinking water fountain; a gate did not self-close and latch; only one "Shallow Water – No Diving Allowed" sign was posted; the log book was not properly bound and numbered on the first inspection, and was not maintained on a daily basis on the second inspection; and, the cyanuric acid level was not being recorded on a weekly basis.

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

58)     Order Type and Number:                             Consent Order 19-101-RW  
          Order Date:   August 22, 2019  
          Individual/Entity:                                 **TD Ripley Hotel RI, LLC**  
          Facility:   Residence Inn  
          Location:    90 Ripley Point Drive  
  Charleston, SC 29204  
          Mailing Address:                                 60 Pointe Circle  
  Greenville, SC 29615  
          County:   Charleston  
          Previous Orders:                                  None  
          Permit/ID Number:                               10-590-1  
          Violations Cited:                                S.C. Code Ann. Regs. 61-51(J)

Summary: TD Ripley Hotel RI, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 17, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

59)     Order Type and Number:                             Consent Order 19-102-RW  
          Order Date:   August 22, 2019  
          Individual/Entity:                                 **Ashton Woods, L.P.**  
          Facility:   Ashton Woods  
          Location:    4001 Pelham Road  
  Greer, SC 29650  
          Mailing Address:                                 Same  
          County:   Greenville  
          Previous Orders:                                  None  
          Permit/ID Number:                               23-219-1  
          Violations Cited:                                S.C. Code Ann. Regs. 61-51(J)

Summary: Ashton Woods, L.P. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2019, and July 17, 2019, the pool 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 lifeline floats were not properly spaced; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the emergency notification device was not operational; the pool rules sign was not completely filled out and was not legible; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the current pool operator of record information was not posted to the public..

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

60)     Order Type and Number:                     Consent Order 19-103-RW  
          Order Date:                                 August 27, 2019  
          Individual/Entity:                     **Lakeside Apartments, LLC**  
          Facility:                                 Lakeside Apartments  
          Location:                                 503 Sewanee Street  
   Bennettsville, SC 29512  
  
          Mailing Address:                     Same  
          County:                                 Marlboro  
          Previous Orders:                     16-157-RW (\$680.00)  
          Permit/ID Number:                     34-007-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J) &  
   61-51(K)(1)(c)

Summary: Lakeside Apartments, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 6, 2019, and July 25, 2019, the pool was inspected, and a violation was issued for failure to properly operate and maintain; and, on July 25, 2019, the pool was inspected, and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline was not attached to the pool wall and was not in serviceable condition; a ladder was not tight and secure; the pool floor was dirty; the pool furniture was not at least four feet from the edge of the pool; there was debris in the skimmer baskets; the water level was too high; the bathrooms were dirty and did not have toilet paper, soap, or paper towels; the drinking water fountain was not operating; the foot rinse shower was not operating; the annual operating fee was not paid; the chemical storage room was not accessible; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the main drain grates were not visible due to cloudy, green water; there was no life ring; there was no emergency notification device; there was no pool rules sign; there were no "Shallow Water – No Diving Allowed" signs posted on the first inspection, and only one "Shallow Water – No Diving Allowed" sign was posted on the second inspection; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the facility could not produce current valid documentation of pool operator certification; the bound and numbered log book was not available for review; the deck was not clear of hazards; the pool equipment room was unlocked; the shepherd's crook was missing a bolt; the disinfection equipment was leaking; the recirculation and filtration system was leaking; and, the pool was opened prior to receiving Department approval.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, seven hundred dollars **(\$1,700.00)**. The civil penalty has been paid.

61)     Order Type and Number:                     Consent Order 19-104-RW  
          Order Date:                                 August 26, 2019  
          Individual/Entity:                     **Heritage Villas Horizontal Property Regime XXII, Inc.**  
          Facility:                                 Heritage Villas  
          Location:                                 59 Plantation Drive  
   Hilton Head Island, SC 29928  
  
          Mailing Address:                     Same  
          County:                                 Beaufort

<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	07-084-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Heritage Villas Horizontal Property Regime XXII, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 5, 2019, the pool 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 bathrooms did not have toilet paper, soap, or paper towels; the gate did not self-close and latch; and, the chlorine level was not within the acceptable range of water quality standards.

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

62)	<u>Order Type and Number:</u>	Consent Order 19-105-RW
	<u>Order Date:</u>	August 27, 2019
	<u>Individual/Entity:</u>	<b>The Ridge at Chukker Creek Owners Association, Inc.</b>
	<u>Facility:</u>	The Ridge at Chukker Creek
	<u>Location:</u>	2450 Chukker Creek Road Aiken, SC 29803
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-1029B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Ridge at Chukker Creek Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 11, 2019, the pool 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 pool walls were dirty; the chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was incorrectly filled out and was faded on the first inspection; the pool rules sign was obstructed on the second inspection; and, a skimmer was missing a weir.

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

63)	<u>Order Type and Number:</u>	Consent Order 19-106-RW
	<u>Order Date:</u>	August 27, 2019
	<u>Individual/Entity:</u>	<b>Hole 19, LLC</b>
	<u>Facility:</u>	Links at Stoney Point Golf Club
	<u>Location:</u>	709 Swing About Greenwood, SC 29649
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenwood

<u>Previous Orders:</u>	16-079-RW (\$2,720.00)
<u>Permit/ID Number:</u>	24-1012B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hole 19, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 4, 2019, and July 11, 2019, the pool 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 waterline tiles were dirty; the foot rinse shower was not operating; the chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the life ring was deteriorated on the first inspection; the life ring was not United States Coast Guard approved on the second inspection; and, the emergency notification device was not operating.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

64)	<u>Order Type and Number:</u>	Consent Order 19-107-RW
	<u>Order Date:</u>	August 27, 2019
	<u>Individual/Entity:</u>	<b>Spartanburg Athletic Club, Inc.</b>
	<u>Facility:</u>	2420 Andrews Road Spartanburg, SC 29318
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Spartanburg
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	42-139-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Spartanburg Athletic Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On February 28, 2019, and July 18, 2019, the pool 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: there was debris in the skimmer baskets; a skimmer was missing a weir; the bound and numbered log book was not maintained on a daily basis; a depth marker tile was cracked; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not permanently mounted; and, only one "Shallow Water – No Diving Allowed" sign was posted.

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

65)	<u>Order Type and Number:</u>	Consent Order 19-108-RW
	<u>Order Date:</u>	August 27, 2019
	<u>Individual/Entity:</u>	<b>Charleston Palmetto Property, LLC</b>
	<u>Facility:</u>	Palmetto Grove Apartment Homes Phase 1
	<u>Location:</u>	7927 St. Ives Road North Charleston, SC 29406
	<u>Mailing Address:</u>	8255 Greensboro Drive Suite 200

	McLean, VA 22102
<u>County:</u>	Charleston
<u>Previous Orders:</u>	17-054-RW (\$680.00)
<u>Permit/ID Number:</u>	10-426-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Charleston Palmetto Property, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 12, 2019, and July 15, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; and, a skimmer was missing a weir.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

66)	<u>Order Type and Number:</u>	Consent Order 19-109-RW
	<u>Order Date:</u>	August 28, 2019
	<u>Individual/Entity:</u>	<b>RP FM221, LLC</b>
	<u>Facility:</u>	Commons at Fort Mill
	<u>Location:</u>	221 Embassy Drive Fort Mill, SC 29715
	<u>Mailing Address:</u>	Same
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-1112B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: RP FM221, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 6, 2019, and July 11, 2019, the pool was inspected, and a violation was issued for failure to properly operate and maintain; and, on July 30, 2019, the pool was inspected, and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards; bolt covers were in disrepair; the pool floor was dirty; there was debris in the skimmer baskets; the bathrooms and the drinking water fountain were not accessible; the pool equipment room was not locked; the emergency notification device was not operational; the pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of nine hundred thirty-five dollars **(\$935.00)**. The civil penalty has been paid.



67)	<u>Order Type and Number:</u>	Consent Order 19-110-RW
	<u>Order Date:</u>	August 28, 2019
	<u>Individual/Entity:</u>	<b>Almond Glen Owners Association, Inc.</b>
	<u>Facility:</u>	Almond Glen Amenities
	<u>Location:</u>	2116 Caprington Drive Fort Mill, SC 29720
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lancaster
	<u>Previous Orders:</u>	18-250-RW (\$2,040.00)
	<u>Permit/ID Number:</u>	29-1029B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Almond Glen Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 12, 2019, the pool 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: there was debris in a skimmer basket and the basket was floating; the drinking water fountain was not operating properly; the flow meter was not operating properly; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; the bound and numbered log book was not available for review during the first inspection; the bound and numbered log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record during the second inspection; a bolt cover was in disrepair, and, the cyanuric acid level was not checked weekly.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

68)	<u>Order Type and Number:</u>	Consent Order 19-111-RW
	<u>Order Date:</u>	August 28, 2019
	<u>Individual/Entity:</u>	<b>Charleston Hotel, Inc.</b>
	<u>Facility:</u>	Towneplace Suites
	<u>Location:</u>	805 Orleans Road Charleston, SC 29407
	<u>Mailing Address:</u>	2011 Veasley Street Greensboro, NC 27407
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-1306B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Charleston Hotel, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 12, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water

quality standards acceptable limit; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the bound and numbered log book was not maintained on a daily basis.

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

69)     Order Type and Number:                     Consent Order 19-112-RW  
          Order Date:                                 August 28, 2019  
          Individual/Entity:                         **Lowcountry Hotels III, LLC**  
          Facility:                                     Holiday Inn Express & Suites  
          Location:                                    3025 West Montague Avenue  
  Charleston, SC 29418  
  
          Mailing Address:                         Same  
          County:                                     Charleston  
          Previous Orders:                         None  
          Permit/ID Number:                     10-1197B & 10-1198D  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J)

Summary: Lowcountry Hotels III, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On June 12, 2019, and July 11, 2019, the pool and spa were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards; the foot rinse shower was not operating; the emergency notification device was not operating; the recirculation and filtration equipment was leaking; a light was out of its niche; and, the spa temperature was not being recorded.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.

70)     Order Type and Number:                     Consent Order 19-113-RW  
          Order Date:                                 August 28, 2019  
          Individual/Entity:                         **Olde Towne Villas Homeowners Association**  
          Facility:                                     Olde Towne Villas Condos  
          Location:                                    1 Lelia Lane  
  Charleston, SC 29407  
  
          Mailing Address:                         P.O. Box 208  
  Isle of Palms, SC 29451  
  
          County:                                     Charleston  
          Previous Orders:                         None  
          Permit/ID Number:                     10-089-1 & 10-089-2  
          Violations Cited:                       S.C. Code Ann. Regs. 61-51(J)

Summary: Olde Towne Villas Homeowners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On June 13, 2019, and July 16, 2019, the pool and kiddie pool were inspected, and violations were issued for

failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; a skimmer was missing a weir; the disinfection equipment was not accessible; the recirculation and filtration system was not accessible; a gate did not self-close and latch; the facility could not produce current valid documentation of pool operator certification; the bound and numbered log book was not available for review; the water level was too high; there was standing water on the pool deck; the deck was chipped; the bound and numbered log book was not maintained on a daily basis; there were chlorine sticks in the skimmer baskets; and, the deck was not clear of hazards.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

71)	<u>Order Type and Number:</u>	Consent Order 19-114-RW
	<u>Order Date:</u>	August 28, 2019
	<u>Individual/Entity:</u>	<b>The Homeowners Association of Lake Ridge, Inc.</b>
	<u>Facility:</u>	Lake Ridge
	<u>Location:</u>	1040 Angelica Lane Tega Cay, SC 29708
	<u>Mailing Address:</u>	560 Rosemary Lane Tega Cay, SC 29708
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-1108B & 46-1109C
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Homeowners Association of Lake Ridge, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On May 30, 2019, and July 2, 2019, the pool and kiddie pool were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing a bumper; a ladder was not tight and secure; a handrail was not tight and secure; there was debris in the skimmer baskets; the water level was too high; skimmers were missing weirs; the flow meter was not operating; the chlorine and pH levels were not within the acceptable range of water quality standards; the bound and numbered log book was not filled out a minimum of three times per week by a certified pool operator of record; and, the cyanuric acid levels were not recorded a minimum of once per week in the bound and numbered log book.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

72)	<u>Order Type and Number:</u>	Consent Order 19-115-RW
	<u>Order Date:</u>	August 29, 2019
	<u>Individual/Entity:</u>	<b>HPI Villas at Lawson Creek, LLC</b>
	<u>Facility:</u>	Villas at Lawson Creek
	<u>Location:</u>	9159 Asheville Highway

<u>Mailing Address:</u>	Boiling Springs, SC 29316
<u>County:</u>	Same
<u>Previous Orders:</u>	Spartanburg
<u>Permit/ID Number:</u>	None
<u>Violations Cited:</u>	42-1074B
	S.C. Code Ann. Regs. 61-51(J)

Summary: HPI Villas at Lawson Creek, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 28, 2019, and July 8, 2019, the pool 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: a skimmer was missing a weir; the log book was not properly bound and numbered during the first inspection; the bound and numbered log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record during the second inspection; a handrail was not tight and secure; and, the pH level was not within the acceptable range of water quality standards

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

73)	<u>Order Type and Number:</u>	Consent Order 19-116-RW
	<u>Order Date:</u>	August 29, 2019
	<u>Individual/Entity:</u>	<b>Vision Seven Hospitality, LLC</b>
	<u>Facility:</u>	Sleep Inn
	<u>Location:</u>	2523 Boundary Street
		Beaufort, SC 29906
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Beaufort
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	07-551-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Vision Seven Hospitality, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 2019, and July 22, 2019, the pool 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 pH level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the facility could not produce current valid documentation of pool operator certification; the cyanuric acid level was not being recorded weekly; and, there were chlorine sticks in the skimmer baskets.

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

74)     Order Type and Number:                     Consent Order 19-117-RW  
          Order Date:                                 August 29, 2019  
          Individual/Entity:                     **The Landing Owners Association, Inc.**  
          Facility:                                 The Landing  
          Location:                                 2643 Landing Pointe Drive  
  Clover, SC 29710  
  
          Mailing Address:                     Same  
          County:                                 York  
          Previous Orders:                     None  
          Permit/ID Number:                 46-158-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: The Landing Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 29, 2019, and June 28, 2019, the pool 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: a bolt cover was missing; the drinking water fountain was not operating; the chlorine level was not within the acceptable range of water quality standards; the bound and numbered log book was not available for review on the first inspection; a ladder was not tight and secure; a ladder was missing bumpers; the bound and numbered log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record on the second inspection; and, the recirculation and filtration system was leaking.

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

75)     Order Type and Number:                     Consent Order 19-118-RW  
          Order Date:                                 August 29, 2019  
          Individual/Entity:                     **Annpurna SC, LLC**  
          Facility:                                 Quality Inn  
          Location:                                 611 West Wade Hampton Boulevard  
  Greer, SC 29650  
  
          Mailing Address:                     Same  
          County:                                 Greenville  
          Previous Orders:                     None  
          Permit/ID Number:                 23-432-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Annpurna SC, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 2019, and July 19, 2019, the pool 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: a ladder was not tight and secure; a ladder was missing a tread; the waterline tiles were dirty; a skimmer was missing a weir; a skimmer lid was cracked; the foot rinse shower was not operating; the chlorine level was not within the acceptable range of water quality standards; the log book was not properly bound or numbered; the cyanuric acid level was not being recorded weekly; the disinfection equipment was missing; the flow meter was not operating; the "Shallow Water – No Diving Allowed" signs did not have the

appropriate size lettering; and, the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the appropriate size lettering.

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

76)	<u>Order Type and Number:</u>	Consent Order 19-119-RW
	<u>Order Date:</u>	August 30, 2019
	<u>Individual/Entity:</u>	<b>Garden Hospitality – Aiken, LLC</b>
	<u>Facility:</u>	Hilton Garden Inn
	<u>Location:</u>	350 East Gate Drive Aiken, SC 29803
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-1020B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Garden Hospitality – Aiken, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 6, 2019, and July 11, 2019, the pool 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 pool walls were not clean; the pH level was not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

77)	<u>Order Type and Number:</u>	Consent Order 19-121-RW
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>PC Planters, LLC</b>
	<u>Facility:</u>	Planters Trace Apartments
	<u>Location:</u>	2222 Ashley River Road Charleston, SC 29414
	<u>Mailing Address:</u>	5651 Catskill Court Winter Springs, FL 32708
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-109-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: PC Planters, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 20, 2019, and July 16, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; only one "Shallow Water – No Diving

Allowed" sign was posted; there were no "No Lifeguard On Duty – Swim At Your Own Risk" signs posted; the bound and numbered log book was not maintained on a daily basis; the lifeline floats were not properly spaced; a skimmer was missing a weir; the cyanuric acid level was above the water quality standards acceptable limit; the bound and numbered log book was not available for review; and, there were chlorine sticks in the skimmer baskets.

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

78)	<u>Order Type and Number:</u>	Consent Order 19-122-RW
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Rock Hill Holdings 267, LLC</b>
	<u>Facility:</u>	The Estates at Rock Hill
	<u>Location:</u>	2400 Celanese Road Rock Hill, SC 29732
	<u>Mailing Address:</u>	Same
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-020-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Rock Hill Holdings 267, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 10, 2019, and July 22, 2019, the pool 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: a skimmer was missing a weir; there was debris in the skimmer baskets; there was no foot rinse shower; the chlorine and pH levels were not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the "Shallow Water – No Diving Allowed" signs did not have the correct wording; only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted and it did not contain the correct wording or lettering size; the bound and numbered log book was not available for review; the recirculation and filtration system was leaking; the cyanuric acid level was not checked weekly; and, there were chlorine pucks in the skimmer baskets.

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

79)	<u>Order Type and Number:</u>	Consent Order 19-123-RW
	<u>Order Date:</u>	September 4, 2019
	<u>Individual/Entity:</u>	<b>Jay AMBA MA, Inc.</b>
	<u>Facility:</u>	Comfort Inn and Suites
	<u>Location:</u>	220 Wall Street Camden, SC 29020
	<u>Mailing Address:</u>	419 Sumter Highway Camden, SC 29020
	<u>County:</u>	Kershaw

<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	28-1002B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Jay AMBA MA, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 2019, and August 13, 2019, the pool 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: a ladder was missing bumpers; the drinking water fountain was not operating properly; there was no foot rinse shower; a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the shepherd's crook handle was attached to a telescoping pole; the shepherd's crook was not permanently attached to the handle; the pool rules sign was not completely filled out; only one "Shallow Water – No Diving Allowed" sign was posted; the current pool operator of record information was not posted to the public; the bound and numbered log book was not available for review; the foot rinse shower was not operating properly; and, a section of the perimeter fencing had openings greater than four inches.

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

80)	<u>Order Type and Number:</u>	Consent Order 19-124-RW
	<u>Order Date:</u>	September 4, 2019
	<u>Individual/Entity:</u>	<b>Pracha, LLC</b>
	<u>Facility:</u>	Crossroads Inn and Suites
	<u>Location:</u>	2376 Highway 501 East Conway, SC 29526-9526
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	16-096-RW (\$340.00)
	<u>Permit/ID Number:</u>	26-875-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Pracha, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 12, 2019, and July 15, 2019, the pool 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 lifeline floats were not properly spaced; a ladder was not tight and secure; a ladder was missing bumpers and non-slip tread inserts; the plaster on the pool floor was chipped; a gate did not self-close and latch; the pH level was not within the acceptable range of water quality standards; the emergency notification device was not operational; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**. The civil penalty has been paid.



81)     Order Type and Number:                     Consent Order 19-125-RW  
          Order Date:                                 September 4, 2019  
          Individual/Entity:                     **Fort Sumter House Association, Inc.**  
          Facility:                                 Fort Sumter House  
          Location:                                 1 King Street  
   Charleston, SC 29401  
  
          Mailing Address:                     Same  
          County:                                 Charleston  
          Previous Orders:                     None  
          Permit/ID Number:                 10-021-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Fort Sumter House Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 8, 2019, the pool 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 pH level was not within the acceptable range of water quality standards; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the bound and numbered log book was not maintained on a daily basis.

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

82)     Order Type and Number:                     Consent Order 19-126-RW  
          Order Date:                                 September 4, 2019  
          Individual/Entity:                     **Strata Veridian, LLC**  
          Facility:                                 Veridian Apartments  
          Location:                                 315 Bircharun Drive  
   Spartanburg, SC 29301  
  
          Mailing Address:                     Same  
          County:                                 Spartanburg  
          Previous Orders:                     None  
          Permit/ID Number:                 42-183-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Strata Veridian, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 14, 2019, and July 23, 2019, the pool 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: a ladder was not tight and secure; a ladder was missing bumpers; a skimmer was missing a weir; the bathrooms did not have toilet paper; the pool equipment room piping was leaking; the chlorine level was not within the acceptable range of water quality standards; the lifeline floats were not properly spaced; a ladder was missing rungs; and, the gate did not self-close and latch.

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

83)     Order Type and Number:                     Consent Order 19-127-RW  
          Order Date:                                 September 4, 2019  
          Individual/Entity:                       **GS Hotel, LLC**  
          Facility:                                   Home 2 Suites  
          Location:                                  20 Beacon Drive  
  Greenville, SC 29601  
  
          Mailing Address:                       Same  
          County:                                   Greenville  
          Previous Orders:                       None  
          Permit/ID Number:                   23-1231B  
          Violations Cited:                    S.C. Code Ann. Regs. 61-51(J)

Summary: GS Hotel, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 17, 2019, and July 19, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; only one "Shallow Water – No Diving Allowed" sign was posted; and, the bound and numbered log book was not maintained on a daily basis.

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

84)     Order Type and Number:                     Consent Order 19-128-RW  
          Order Date:                                 September 4, 2019  
          Individual/Entity:                       **EA Properties, LLC**  
          Facility:                                   Green Valley Country Club  
          Location:                                  225 Green Valley Drive  
  Greenville, SC 29617  
  
          Mailing Address:                       Same  
          County:                                   Greenville  
          Previous Orders:                       None  
          Permit/ID Number:                   23-038-1  
          Violations Cited:                    S.C. Code Ann. Regs. 61-51(J)

Summary: EA Properties, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 17, 2019, and August 1, 2019, the pool 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 lifeline floats were not properly spaced; a handrail was not tight and secure; a ladder was missing rungs and bumpers and was not tight and secure; a bolt cover was in disrepair; the pool equipment room was not locked; the chlorine level was not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

85)     Order Type and Number:                     Consent Order 19-129-RW  
          Order Date:                                 September 4, 2019  
          Individual/Entity:                     **J & M Hospitality, Inc.**  
          Facility:                                 Super 8  
          Location:                                 1591 Highway 17 North  
   North Myrtle Beach, SC 29582  
  
          Mailing Address:                     Same  
          County:                                 Horry  
          Previous Orders:                     18-262-RW (\$1,360.00);  
   17-144-RW (\$1,360.00);  
   16-123-RW (\$680.00)  
  
          Permit/ID Number:                     26-L25-1; 26-L26-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: J & M Hospitality, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On May 23, 2019, and June 24, 2019, the pool and spa were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: bolt covers were in disrepair; skimmers were missing weirs; the chlorine and pH levels were not within the acceptable range of water quality standards; the bound and numbered log book was not maintained on a daily basis; the life ring was deteriorated; the shepherd's crook was missing bolts; the pool rules sign was not completely filled out; and, a handrail was not tight and secure.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of three thousand, three hundred sixty dollars **(\$3,360.00)**.

86)     Order Type and Number:                     Consent Order 19-130-RW  
          Order Date:                                 September 5, 2019  
          Individual/Entity:                     **Twin Lakes Enterprises, LLC**  
          Facility:                                 Twin Lakes  
          Location:                                 141 West Country Club Road  
   Hamer, SC 29547  
  
          Mailing Address:                     P.O. Box 675  
   Dillon, SC 29536  
  
          County:                                 Dillon  
          Previous Orders:                     None  
          Permit/ID Number:                     17-014-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Twin Lakes Enterprises, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 7, 2019, July 29, 2019, and August 8, 2019, the pool 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: a ladder was missing a bumper; there was algae on the pool walls; the deck was not clean and clear of hazards; skimmer lids were cracked; the water level was low; the bathrooms did not have toilet paper, soap, paper towels, or a hand dryer; the chemical storage room was unlocked; there were chemicals stored in the pump room; the gate did not self-close and latch; a section of the perimeter fencing

had openings greater than four inches; the chlorine and pH levels were not within the acceptable range of water quality standards; the main drain grates were not visible; the life ring rope was too short; the bound and numbered log book was not available for review on the first inspection; the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record on the second inspection; and, the bound and numbered log book was not maintained on a daily basis on the second and third inspection.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, forty dollars **(\$2,040.00)**.

87)	<u>Order Type and Number:</u>	Consent Order 19-131-RW
	<u>Order Date:</u>	September 6, 2019
	<u>Individual/Entity:</u>	<b>WOP Thornblade, LLC</b>
	<u>Facility:</u>	Thornblade Park
	<u>Location:</u>	100 Mary Rose Lane Greer, SC 29650
	<u>Mailing Address:</u>	1200 Lake Hearne Drive, Suite 200 Atlanta, GA 30319
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-476-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: WOP Thornblade, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2019, and July 16, 2019, the pool 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: a depth marker tile was loose; a skimmer cover was cracked; a light in the pool wall was out of its niche; the shepherd's crook was missing a bolt; the pool rules sign was not completely filled out; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the current pool operator of record information was not posted to the public and the facility could not produce current valid documentation of pool operator certification; the bound and numbered log book was not maintained on a daily basis on the first inspection; and, the cyanuric acid level was not recorded on a weekly basis in the bound and numbered log book on the second inspection.

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

88)	<u>Order Type and Number:</u>	Consent Order 19-132-RW
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Ackerman Greenstone North Augusta, LLC</b>
	<u>Facility:</u>	Crowne Plaza
	<u>Location:</u>	1060 Center Street North Augusta, SC 29841
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken

<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	02-1046B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Ackerman Greenstone North Augusta, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 21, 2019, and July 17, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; the pool rules sign was obstructed; the current pool operator of record information was not posted to the public; the facility could not produce current valid documentation of pool operator certification; the log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the operator of record; a handrail was not tight and secure; the bathrooms were not accessible; and, a gate did not self-close and latch.

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

89)	<u>Order Type and Number:</u>	Consent Order 19-133-RW
	<u>Order Date:</u>	September 9, 2019
	<u>Individual/Entity:</u>	<b>CVS Westgate Event Center, LLC</b>
	<u>Facility:</u>	Hilton Garden Inn
	<u>Location:</u>	805 Spartan Boulevard Spartanburg, SC 29301
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Spartanburg
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	42-1114B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: CVS Westgate Event Center, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 17, 2019, and July 25, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; and, the cyanuric acid level was not recorded weekly in the bound and numbered log book.

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

90)	<u>Order Type and Number:</u>	Consent Order 19-134-RW
	<u>Order Date:</u>	September 10, 2019
	<u>Individual/Entity:</u>	<b>HAS of Aiken, Inc.</b>
	<u>Facility:</u>	Days Inn Downtown
	<u>Location:</u>	1204 Richland Avenue West Aiken, SC 29801

<u>Mailing Address:</u>	Same
<u>County:</u>	Aiken
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	02-064-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: HAS of Aiken, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 29, 2019, and July 24, 2019, the pool 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: depth marker tiles were faded and did not have a non-slip finish; a ladder was not tight and secure; a ladder was missing bumpers; the pool walls were dirty; a gate did not self-close and latch; the life ring rope was not the appropriate length; the shepherd's crook was not mounted in the designated location; the pool rules sign was obstructed; some of the tiles on the pool wall were missing; a skimmer was missing a weir; there was no drinking water fountain; and, there was no step edge tile.

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

91)	<u>Order Type and Number:</u>	Consent Order 19-135-RW
	<u>Order Date:</u>	September 10, 2019
	<u>Individual/Entity:</u>	<b>Quail Hollow Pool Association, Inc.</b>
	<u>Facility:</u>	Quail Hollow
	<u>Location:</u>	809 66 <sup>th</sup> Avenue North Myrtle Beach, SC 29572
	<u>Mailing Address:</u>	805 D 66 <sup>th</sup> Avenue North Myrtle Beach, SC 29572
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	26-588-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Quail Hollow Pool Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 10, 2019, the pool 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: a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; there was no emergency notification device; the pool rules sign was not completely filled out; the bound and numbered log book was not maintained on a daily basis on the first inspection; and, the bound and numbered log book was filled out in advance on the second inspection.

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

92)     Order Type and Number:                     Consent Order 19-136-RW  
          Order Date:                                 September 10, 2019  
          Individual/Entity:                         **Strata Bellwood, LLC**  
          Facility:                                     Estates at Bellwood Apartment Homes  
          Location:                                     30 Southpointe Drive  
  Greenville, SC 29607  
  
          Mailing Address:                         Same  
          County:                                     Greenville  
          Previous Orders:                           None  
          Permit/ID Number:                       23-562-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: Strata Bellwood, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 8, 2019, and July 25, 2019, the pool 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: a ladder was missing rungs, bumpers, and non-slip tread inserts; there was debris in the skimmer baskets; the bathrooms did not have soap or paper towels; the drinking water fountain was not operational; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

93)     Order Type and Number:                     Consent Order 19-137-RW  
          Order Date:                                 September 10, 2019  
          Individual/Entity:                         **River Bluff Homeowners Association, Inc.**  
          Facility:                                     River Bluff Recreational Area  
          Location:                                     Silverbluff Road  
  Aiken, SC 29801  
  
          Mailing Address:                         Same  
          County:                                     Aiken  
          Previous Orders:                           None  
          Permit/ID Number:                       02-070-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: River Bluff Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 20, 2019, and July 15, 2019, the pool 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: a deck depth marker tile did not have a non-slip finish; the plaster on the pool floor was delaminated and chipped; the pool furniture was not at least four feet from the edge of the pool; the gate did not self-close and latch; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

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

94)     Order Type and Number:                     Consent Order 19-138-RW  
          Order Date:                                 September 10, 2019  
          Individual/Entity:                     **Indigo Run Asset Corp.**  
          Facility:                                 The Golf Club at Indigo Run  
          Location:                                 101 Bernwick Drive  
   Hilton Head, SC 29926  
  
          Mailing Address:                     Same  
          County:                                 Beaufort  
          Previous Orders:                     None  
          Permit/ID Number:                 07-586-1  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Indigo Run Asset Corp. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 24, 2019, and July 30, 2019, the pool 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 chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was faded; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the cyanuric acid level was above the water quality standards acceptable limit.

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

95)     Order Type and Number:                     Consent Order 19-139-RW  
          Order Date:                                 September 10, 2019  
          Individual/Entity:                     **Gregg's Mill Community Association, Inc.**  
          Facility:                                 Gregg's Mill Subdivision  
          Location:                                 7024 Grayson Drive  
   Graniteville, SC 29829  
  
          Mailing Address:                     7009 Evans Town Center Boulevard  
   Evans, GA 30809  
  
          County:                                 Aiken  
          Previous Orders:                     None  
          Permit/ID Number:                 02-1034B  
          Violations Cited:                     S.C. Code Ann. Regs. 61-51(J)

Summary: Gregg's Mill Community Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 2019, and July 16, 2019, the pool 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: a ladder and handrail were not tight and secure; a ladder was missing bumpers; a gate did not self-close and latch; the pH and chlorine levels were not within the acceptable range of water quality standards; the bound and numbered log book was not maintained on a daily basis; the cyanuric acid level was not checked weekly; the pool walls were dirty; and, the water level was low.



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

96)	<u>Order Type and Number:</u>	Consent Order 19-140-RW
	<u>Order Date:</u>	September 10, 2019
	<u>Individual/Entity:</u>	<b>North Augusta Hotel, LLC</b>
	<u>Facility:</u>	Holiday Inn Express
	<u>Location:</u>	138 Stephens Farm Lane North Augusta, SC 29860
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-1041B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: North Augusta Hotel, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2019, and July 22, 2019, the pool 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 foot rinse shower was not operating properly; the log book was not maintained on a daily basis and was not maintained a minimum of three times per week by the pool operator of record; the pool walls were dirty; a skimmer was missing a weir; the pH level was not within the acceptable range of water quality standards; and, only one "Shallow Water – No Diving Allowed" sign was posted.

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

97)	<u>Order Type and Number:</u>	Consent Order 19-141-RW
	<u>Order Date:</u>	September 13, 2019
	<u>Individual/Entity:</u>	<b>The Bostonian Homeowners' Association, Inc.</b>
	<u>Facility:</u>	The Bostonian
	<u>Location:</u>	1417 South Ocean Boulevard Surfside Beach, SC 29575
	<u>Mailing Address:</u>	213 South Ocean Boulevard Surfside Beach, SC 29575
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	26-E72-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Bostonian Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 16, 2019, the pool 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: a ladder was missing bumpers; a gate did not self-close and latch; the life ring was deteriorated and did not have a permanently attached rope on the first inspection; the life ring did not have a rope of the

appropriate length on the second inspection; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

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

98)     Order Type and Number:                     Consent Order 19-142-RW  
          Order Date:                                 September 16, 2019  
          Individual/Entity:                         **The Owners Club at Hilton Head Owners Association, Inc.**  
  
          Facility:                                     The Owners Club at Hilton Head  
          Location:                                     22 Aberdeen Court  
  Hilton Head, SC 29926  
  
          Mailing Address:                         Same  
          County:                                     Beaufort  
          Previous Orders:                         None  
          Permit/ID Number:                     07-515-1 & 07-516-1  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: The Owners Club at Hilton Head Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of two spas. On June 26, 2019, and July 31, 2019, the spas were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

99)     Order Type and Number:                     Consent Order 19-143-RW  
          Order Date:                                 September 16, 2019  
          Individual/Entity:                         **South Ridge/Cantamar, LLC, et al.**  
          Facility:                                     South Ridge Apartments  
          Location:                                     823 South Church Street  
  Greenville, SC 29601  
  
          Mailing Address:                         Same  
          County:                                     Greenville  
          Previous Orders:                         None  
          Permit/ID Number:                     23-1224B  
          Violations Cited:                        S.C. Code Ann. Regs. 61-51(J)

Summary: South Ridge/Cantamar, LLC, et al. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 24, 2019, and July 31, 2019, the pool 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: there was debris in the skimmer baskets; the drinking water fountain was not operational, the chlorine and pH levels

were not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

100)	<u>Order Type and Number:</u>	Consent Order 19-144-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Green River Country Club</b>
	<u>Facility:</u>	Green River Country Club
	<u>Location:</u>	714 Country Club Road Chesterfield, SC 29709
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Chesterfield
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	13-007-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Green River Country Club (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 30, 2019, and July 29, 2019, the pool 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 lifeline with floats was not attached to the pool wall; the pool floor was not clean; the pool furniture was not at least four feet from the edge of the pool; the water level was too low; a skimmer was missing a weir; the skimmer lids were cracked; the foot rinse shower was not operating; there was no drinking water fountain; the chlorine level was not within the acceptable range of water quality standards; there was no life ring; there was no shepherd's crook; the emergency notification device was not operating; the pool rules sign was obstructed; there were no "Shallow Water – No Diving Allowed" signs posted; there were no "No Lifeguard On Duty – Swim At Your Own Risk" signs posted on the first inspection; the "No Lifeguard On Duty – Swim At Your Own Risk" signs posted on the second inspection did not have the correct wording; the current pool operator of record information was not posted to the public; and, the bound and numbered log book was not available for review.

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

101)	<u>Order Type and Number:</u>	Consent Order 19-145-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Shree Kishabapa Carowinds, LLC</b>
	<u>Facility:</u>	Quality Inn Carowinds
	<u>Location:</u>	3560 Lakemont Boulevard Fort Mill, SC 29708
	<u>Mailing Address:</u>	Same
	<u>County:</u>	York
	<u>Previous Orders:</u>	17-163-RW (\$340.00)
	<u>Permit/ID Number:</u>	46-113-1

Violations Cited:

S.C. Code Ann. Regs. 61-51(J)

Summary: Shree Kishabapa Carowinds, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 16, 2019, the pool 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: a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; the "Shallow Water – No Diving Allowed" signs were obstructed; only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted; the current pool operator of record information was not posted to the public; the pool equipment room was not accessible; a handrail was not tight and secure; the drinking water fountain was not operating properly; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

102)	<u>Order Type and Number:</u>	Consent Order 19-146-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Young Men's Christian Association of the Upper Pee Dee</b>
	<u>Facility:</u>	YMCA Darlington
	<u>Location:</u>	123 Exchange Street Darlington, SC 29450
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	16-1004B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Young Men's Christian Association of the Upper Pee Dee (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 2019, and July 16, 2019, the pool 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 lifeline floats were not properly spaced; the pool furniture was not at least four feet from the edge of the pool; the water level was too low; the foot rinse shower was not operating properly; the pool pump room and chemical storage room were open to the public; sections of the perimeter fencing had openings greater than four inches; the pH level was not within the acceptable range of water quality standards; the life ring and life ring rope were deteriorated; the pool rules sign was damaged and faded; the current pool operator of record information was not posted to the public; the bound and numbered log book was not available for review; and, a bolt cover was in disrepair.

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

103)    Order Type and Number:                      Consent Order 19-147-RW  
          Order Date:                                        September 16, 2019  
          Individual/Entity:                                **Baxter Community Association, Inc.**  
          Facility:    Baxter Village  
          Location:     3387 Richards Crossing  
   Fort Mill, SC 29708  
  
          Mailing Address:                                Same  
          County:    York  
          Previous Orders:                                 None  
          Permit/ID Number:                            46-1082B & 46-1083C  
          Violations Cited:                               S.C. Code Ann. Regs. 61-51(J)

Summary: Baxter Community Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On May 30, 2019, and July 3, 2019, the pool and kiddie pool were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the flow meter was not operating; the chlorine and pH levels were not within the acceptable range of water quality standards; the emergency notification device was not operating; the pool rules sign was not completely filled out; a bolt cover was cracked; the log book was not properly bound or numbered on the first inspection; a ladder was missing a bumper; a skimmer basket was floating; a skimmer was missing a weir; the life ring rope was deteriorated; the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record on the second inspection; the depth marker tiles at the waterline were missing; the water level was too low; and, the cyanuric acid level was above the water quality standards acceptable limit.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, three hundred sixty dollars **(\$1,360.00)**.

104)    Order Type and Number:                      Consent Order 19-148-RW  
          Order Date:                                        September 16, 2019  
          Individual/Entity:                                **Hammond Hill Villas Homeowners Association, Inc.**  
          Facility:    Hammond Hill Villas  
          Location:     1 Mockingbird Lane  
   North Augusta, SC 29841  
  
          Mailing Address:                                805 A Oak Hert Drive  
   Evans, GA 30809  
  
          County:    Aiken  
          Previous Orders:                                 None  
          Permit/ID Number:                            02-065-1  
          Violations Cited:                               S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Hammond Hill Villas Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 2019, and July 16, 2019, the pool was inspected, and a violation was issued for failure to properly operate and maintain; and, on June 13, 2019, the pool was inspected, and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming

Pools Regulation as follows: the depth marker tiles on the deck did not have a non-slip finish; a handrail was missing a bolt cover; the pool walls were dirty; the pool furniture was not at least four feet from the edge of the pool; the water level was too low; there was no flow meter; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was not legible; the pool operator of record information posted did not have the current pool operator of record listed; the bound and numbered log book was not maintained on a daily basis on the first inspection; the bound and numbered log book was not available for review on the second inspection; the disinfection system was not accessible, the recirculation and filtration system was not accessible; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of nine hundred thirty-five dollars **(\$935.00)**.

105)	<u>Order Type and Number:</u>	Consent Order 19-149-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>OHM Florence, LLC</b>
	<u>Facility:</u>	Motel 6
	<u>Location:</u>	2004 West Lucas Street Florence, SC 29501
	<u>Mailing Address:</u>	1500 Constellation Road Allen, TX 75016
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	21-032-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: OHM Florence, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 20, 2019, and August 5, 2019, the pool 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 lifeline was deteriorated and the floats were not properly spaced; the plaster on the pool floor was chipped and had sharp edges; the water level was too high on the first inspection; the gate did not self-close and latch; the water level was too low on the second inspection; the shepherd's crook was missing a bolt; the pH level was not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

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

106)	<u>Order Type and Number:</u>	Consent Order 19-150-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>H &amp; R II, LLC</b>
	<u>Facility:</u>	Governor's Run Golf Club
	<u>Location:</u>	655 Club Drive Lamar, SC 29069

<u>Mailing Address:</u>	Same
<u>County:</u>	Darlington
<u>Previous Orders:</u>	17-098-RW (\$680.00)
<u>Permit/ID Number:</u>	16-012-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: H & R II, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 17, 2019, and July 16, 2019, the pool 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 lifeline floats were not properly spaced; the lifeline was in disrepair; the pool floor was dirty; the pool furniture was not at least four feet from the edge of the pool; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the life ring was not accessible; the shepherd's crook was not accessible; the bound and numbered log book was not maintained on a daily basis; and, the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one hundred thirty-six dollars (**\$136.00**); and, pay a suspended penalty in the amount of one thousand, two hundred twenty-four dollars (\$1,224.00) should any requirement of the Order not be met. The civil penalty has been paid.

107)	<u>Order Type and Number:</u>	Consent Order 19-151-RW
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Gold's Southeast, LLC</b>
	<u>Facility:</u>	Gold's Gym - Greer
	<u>Location:</u>	1207 Wade Hampton Boulevard Greer, SC 29650
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-1258D
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Gold's Southeast, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On January 25, 2019, June 27, 2019, and July 19, 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 chlorine level was not within the acceptable range of water quality standards; and, the spa temperature was not posted to the public.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, forty dollars (**\$2,040.00**).

108)    Order Type and Number:                      Consent Order 19-152-RW  
          Order Date:                                      September 17, 2019  
          Individual/Entity:                              **CPLG Properties, L.L.C.**  
          Facility:                                        La Quinta Inn  
          Location:                                        1561 21<sup>st</sup> Ave N.  
   Myrtle Beach, SC 29577  
          Mailing Address:                              125 East John Carpenter Freeway  
   Suite 1650  
   Irving, TX 75062  
  
          County:    Horry  
          Previous Orders:                                None  
          Permit/ID Number:                            26-M14-1  
          Violations Cited:                              S.C. Code Ann. Regs. 61-51(J)

Summary: CPLG Properties, L.L.C. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 14, 2019, and July 2, 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 chlorine and pH levels were not within the acceptable range of water quality standards; a gate did not self-close and latch; and, the emergency notification device was not operational.

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

109)    Order Type and Number:                      Consent Order 19-153-RW  
          Order Date:                                      September 17, 2019  
          Individual/Entity:                              **Deercreek Plantation at Wyboo Owners Association, Inc.**  
          Facility:                                        Deercreek Plantation at Wyboo  
          Location:                                        1 Deercreek Drive  
   Manning, SC 29102  
          Mailing Address:                              1020 Peachtree Battle Circle  
   Atlanta, GA 30327  
  
          County:    Clarendon  
          Previous Orders:                                None  
          Permit/ID Number:                            14-1007B  
          Violations Cited:                              S.C. Code Ann. Regs. 61-51(J)

Summary: Deercreek Plantation at Wyboo Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 24, 2019, and August 7, 2019, the pool 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: there was debris in the skimmer baskets; a bathroom did not have paper towels or soap; the disinfection system was not accessible, the recirculation and filtration system was not accessible; a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring did not have a rope of the appropriate length; and, the bound and numbered log book was not available for review.



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

110)	<u>Order Type and Number:</u>	Consent Order 19-154-RW
	<u>Order Date:</u>	September 17, 2019
	<u>Individual/Entity:</u>	<b>Hunters Ridge Landing Homeowners Association, Inc.</b>
	<u>Facility:</u>	Hunters Ridge Landing
	<u>Location:</u>	2608 Corn Pile Road Myrtle Beach, SC 29588
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	26-1262B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hunters Ridge Landing Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 30, 2019, and July 8, 2019, the pool 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: skimmers were missing weirs; there was no drinking water fountain and foot rinse shower; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the shepherd's crook was missing a bolt; and, the bound and numbered log book was not maintained on a daily basis.

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

111)	<u>Order Type and Number:</u>	Consent Order 19-155-RW
	<u>Order Date:</u>	September 17, 2019
	<u>Individual/Entity:</u>	<b>Travelers Rest Enterprises, Inc.</b>
	<u>Facility:</u>	Hampton Inn
	<u>Location:</u>	593 Roe Center Court Travelers Rest, SC 29690
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Permit/ID Number:</u>	23-520-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Travelers Rest Enterprises, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. June 17, 2019, and August 2, 2019, the pool 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: ladders and handrails were not tight and secure; the chlorine level was not within the acceptable range of water quality standards; the main drain grates were not visible due to cloudy water; the pool rules sign

was cracked and was not legible; the "Shallow Water – No Diving Allowed" and the "No Lifeguard On Duty – Swim At Your Own Risk" signs were cracked and were not legible; the bound and numbered log book was not maintained on a daily basis, and was not maintained at least three times per week by the pool operator of record; and, there were chlorine tablets in the skimmer baskets.

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

112)	<u>Order Type and Number:</u>	Consent Order 19-156-RW
	<u>Order Date:</u>	September 17, 2019
	<u>Individual/Entity:</u>	<b>Mount Vintage Plantation Homeowners Association, Inc.</b>
	<u>Facility:</u>	Mount Vintage Plantation Town Center
	<u>Location:</u>	375 Mount Vintage Plantation Drive North Augusta, SC 29860
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Edgefield
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	19-1002B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Mount Vintage Plantation Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 19, 2019, and July 26, 2019, the pool 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 deck depth marker tiles did not have a non-slip finish; a ladder was not tight and secure and was missing bumpers; the foot rinse shower was not operational; the pool equipment room was not locked; the emergency notification device was not operational; the "Shallow Water – No Diving Allowed" signs were obstructed; the current pool operator of record information was not posted to the public; the bound and numbered log book was not maintained on a daily basis on the first inspection; the bound and numbered log book was not available for review on the second inspection; and, the recirculation and filtration system was leaking.

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

113)	<u>Order Type and Number:</u>	Consent Order 19-157-RW
	<u>Order Date:</u>	September 19, 2019
	<u>Individual/Entity:</u>	<b>4601 High ST DE, LLC</b>
	<u>Facility:</u>	Charbonneau Apartments
	<u>Location:</u>	1 Charbonneau Columbia, SC 29202
	<u>Mailing Address:</u>	76 South Orange Avenue, Suite 101 South Orange, NJ 07079
	<u>County:</u>	Richland

<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	40-224-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: 4601 High ST DE, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 12, 2019, and July 17, 2019, the pool 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 lifeline floats were damaged; a ladder was missing bumpers; the pool floor was not clean; the plaster on the pool floor was delaminated and had sharp edges; the chlorine level was not within the acceptable range of water quality standards; the life ring did not have a permanently attached rope; the pool rules sign was obstructed; the pool rules sign was not completely filled out; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the bound and numbered log book was not available for review on the first inspection; and, the bound and numbered log book was not maintained on a daily basis on the second inspection.

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

114) <u>Order Type and Number:</u>	Consent Order 19-158-RW
<u>Order Date:</u>	September 19, 2019
<u>Individual/Entity:</u>	<b>The Young Men's Christian Association of Columbia, S.C.</b>
<u>Facility:</u>	YMCA Irmo
<u>Location:</u>	1501 Kennerly Road Irmo, SC 29063
<u>Mailing Address:</u>	1612 Marion Street, Suite 100 Columbia, SC 29201
<u>County:</u>	Richland
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	40-1041E
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Young Men's Christian Association of Columbia, S.C. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 19, 2019, July 10, 2019, and July 25, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; and, the disinfection equipment was unplugged.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, forty dollars **(\$2,040.00)**.

115)    Order Type and Number:                      Consent Order 19-159-RW  
          Order Date:                                      September 19, 2019  
          Individual/Entity:                              **Fit Forum, LLC**  
          Facility:    Fitness Forum  
          Location:    120 E Elm Street  
   Florence, SC 29506  
  
          Mailing Address:                              Same  
          County:    Florence  
          Previous Orders:                                None  
          Permit/ID Number:                           21-090-1  
          Violations Cited:                              S.C. Code Ann. Regs. 61-51(J)

Summary: Fit Forum, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 19, 2019, and August 9, 2019, the pool 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 plaster on the pool floor was chipped, tiles on the pool floor were missing; the pool furniture was not at least four feet from the edge of the pool; there was debris in the skimmer baskets; the chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the shepherd's crook handle was on a telescoping pole and was missing a bolt; and, the bound and numbered log book was not maintained on a daily basis, and was not maintained a minimum of three times per week by the pool operator of record.

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

116)    Order Type and Number:                      Consent Order 19-160-RW  
          Order Date:                                      September 19, 2019  
          Individual/Entity:                              **Lakeview Club, Inc.**  
          Facility:    Lakeview Club  
          Location:    401 Springwood Drive  
   Hartsville, SC 29550  
  
          Mailing Address:                              Same  
          County:    Darlington  
          Previous Orders:                                None  
          Permit/ID Number:                           16-016-2  
          Violations Cited:                              S.C. Code Ann. Regs. 61-51(J)

Summary: Lakeview Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a kiddie pool. On June 18, 2019, and July 22, 2019, the kiddie pool 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 pool furniture was not at least four feet from the edge of the pool; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; and, the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record.

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

117)    Order Type and Number:                      Consent Order 19-161-RW  
          Order Date:                                        September 19, 2019  
          Individual/Entity:                                **Sumter Hotel Venture, LLC**  
          Facility:    Hyatt Place  
          Location:     14 North Main Street  
   Sumter, SC 29150  
  
          Mailing Address:                                Same  
          County:     Sumter  
          Previous Orders:                                   None  
          Permit/ID Number:                            43-1017B  
          Violations Cited:                                S.C. Code Ann. Regs. 61-51(J)

Summary: Sumter Hotel Venture, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 2, 2019, and July 31, 2019, the pool 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 pool furniture was not at least four feet from the edge of the pool; a skimmer weir was broken; the pH level was not within the acceptable range of water quality standards; the pool rules sign was not legible; and, the bound and numbered log book was not maintained on a daily basis.

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

118)    Order Type and Number:                      Consent Order 19-162-RW  
          Order Date:                                        September 27, 2019  
          Individual/Entity:                                **Churchill Commons Partners, LLC**  
          Facility:     Viera Aiken  
          Location:     1900 Roses Run  
   Aiken, SC 29803  
  
          Mailing Address:                                Same  
          County:     Aiken  
          Previous Orders:                                   None  
          Permit/ID Number:                            02-085-1  
          Violations Cited:                                S.C. Code Ann. Regs. 61-51(J)

Summary: Churchill Commons Partners, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 22, 2019, the pool 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: a ladder was not tight and secure; a ladder was missing bumpers; the pool walls were dirty; the flow meter was not operating; the cyanuric acid level was above the water quality standards acceptable limit; the pool rules sign did not have all of the required rules; the "Shallow Water – No Diving Allowed" signs did not have the correct size lettering; a bolt cover was in disrepair; a ladder was missing non-slip tread

inserts; the pool floor was dirty; the plaster on the pool floor was delaminated; a skimmer was missing a weir; there was a leak in the equipment room piping; the chlorine level was not within the acceptable range of water quality standards; the current pool operator of record information was not posted to the public; and, the bound and numbered log book was not maintained on a daily basis.

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

119)	<u>Order Type and Number:</u>	Consent Order 19-163-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Cypress Point Condominium Owners Association, Inc.</b>
	<u>Facility:</u>	Cypress Pointe Condos
	<u>Location:</u>	3000 Cypress Pointe Manning, SC 29102
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	14-024-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Cypress Point Condominium Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 24, 2019, and August 7, 2019, the pool 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 pool furniture was not at least four feet from the edge of the pool; the chemical and pump rooms were not locked; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the life ring did not have a permanently attached rope; there was no shepherd's crook on the first inspection; the shepherd's crook was not the appropriate length on the second inspection; the emergency notification device was not operating; the pool rules sign was not legible; only one "Shallow Water – No Diving Allowed" sign was posted; the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record; the bound and numbered log book was not maintained on a daily basis; and, there were chlorine sticks in the skimmer baskets.

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

120)	<u>Order Type and Number:</u>	Consent Order 19-164-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Smith Family Partners, LLC</b>
	<u>Facility:</u>	Bar Harbor Motor Inn
	<u>Location:</u>	100 N Ocean Boulevard Myrtle Beach, SC 29577

<u>Mailing Address:</u>	Same
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	26-440-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Smith Family Partners, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 2019, and July 3, 2019, the pool 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 lifeline with floats was not attached to the pool wall on the first inspection; a skimmer was missing a weir; a gate did not self-close and latch; and, the lifeline floats were not properly spaced on the second inspection.

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

121)	<u>Order Type and Number:</u>	Consent Order 19-165-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Kalmia Landing Homeowners Association</b>
	<u>Facility:</u>	Kalmia Landing
	<u>Location:</u>	205 Landing Drive Aiken, SC 29801
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Aiken
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	02-062-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Kalmia Landing Homeowners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 23, 2019, the pool 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 lifeline floats were not properly spaced; the pool furniture was not at least four feet from the edge of the pool; the pH level was not within the acceptable range of water quality standards; the emergency notification device was not permanently mounted; the pool rules sign was not completely filled out and did not have all of the required rules; and, the facility address was not displayed in a manner that was permanent and weather resistant.

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

122)    Order Type and Number:                      Consent Order 19-166-RW  
          Order Date:                                      September 27, 2019  
          Individual/Entity:                              **Millennium Hotel Group, LLC**  
          Facility:    Homewood Suites by Hilton  
          Location:                                        102 Carolina Point Pkwy  
   Greenville, SC 29607  
  
          Mailing Address:                              Same  
          County:    Greenville  
          Previous Orders:                                None  
          Permit/ID Number:                            23-1140B  
          Violations Cited:                            S.C. Code Ann. Regs. 61-51(J)

Summary: Millennium Hotel Group, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 20, 2019, and August 12, 2019, the pool 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 chlorine level was not within the acceptable range of water quality standards; the bound and numbered log book was not maintained on a daily basis; a handrail was not tight and secure; and, the foot rinse shower was not operating.

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

123)    Order Type and Number:                      Consent Order 19-167-RW  
          Order Date:                                      September 27, 2019  
          Individual/Entity:                              **Summit Hospitality I, LLC**  
          Facility:    Hilton Garden Inn  
          Location:                                        108 Carolina Point Pkwy  
   Greenville, SC 29607  
  
          Mailing Address:                              Same  
          County:    Greenville  
          Previous Orders:                                None  
          Permit/ID Number:                            23-1182D  
          Violations Cited:                            S.C. Code Ann. Regs. 61-51(J)

Summary: Summit Hospitality I, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 21, 2019, and August 13, 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 chlorine and pH levels were not within the acceptable range of water quality standards; the spa temperature was above 104 degrees Fahrenheit; the spa thermometer was not visible to the public; and, the bound and numbered log book was not maintained on a daily basis.

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



124)	<u>Order Type and Number:</u>	Consent Order 19-168-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Rupson, LLC</b>
	<u>Facility:</u>	Quality Inn and Suites
	<u>Location:</u>	150 Dunbarton Drive Florence, SC 29501
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	21-125-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Rupson, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 10, 2019, and July 24, 2019, the pool 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: a bolt cover was missing; a ladder was missing bumpers; the pool equipment room was not locked; a gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; the shepherd's crook was missing a bolt; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the current pool operator of record information was not posted to the public; the cyanuric acid level was not recorded on a weekly basis in the bound and numbered log book on the first inspection; and, the bound and numbered log book was not maintained on a daily basis on the second inspection.

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

125)	<u>Order Type and Number:</u>	Consent Order 19-169-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Furman University</b>
	<u>Facility:</u>	Vinings at Duncan Chapel Apartments
	<u>Location:</u>	421 Duncan Chapel Road Greenville, SC 29617
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-1022B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Furman University (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 14, 2019, July 19, 2019, and July 31, 2019, the pool 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: there was debris in the skimmer baskets; there was no foot rinse shower; the chlorine level was not within the acceptable range of water quality standards; the main drain grates were not visible due to cloudy water; the pool rules sign was not completely filled out; the "Shallow Water – No Diving Allowed" signs did not have the correct wording; the "No Lifeguard On Duty – Swim At Your Own Risk" signs

did not have the correct size lettering; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand forty dollars **(\$2,040.00)**.

126)	<u>Order Type and Number:</u>	Consent Order 19-170-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Springland, Inc.</b>
	<u>Facility:</u>	Peachtree Place Apartments
	<u>Location:</u>	1 Peach Lane Fort Mill, SC 29715
	<u>Mailing Address:</u>	P.O. Box 37166 Charlotte, NC 28237
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-077-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Springland, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 5, 2019, the pool 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 lifeline with floats was not attached to the pool wall on the first inspection; the lifeline floats were not properly spaced on the second inspection; the bathrooms were not accessible; the facility could not produce current valid documentation of pool operator certification on the first inspection; the current pool operator of record information was not posted to the public on the second inspection; the cyanuric acid level was not recorded on a weekly basis in the bound and numbered log book on the first inspection; a ladder was missing non-slip tread inserts; the pool floor was dirty; a gate did not self-close and latch; and, the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record.

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

127)	<u>Order Type and Number:</u>	Consent Order 19-171-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Venus TDG, Inc.</b>
	<u>Facility:</u>	Best Western Carowinds
	<u>Location:</u>	3675 Foothills Way Fort Mill, SC 29708
	<u>Mailing Address:</u>	Same
	<u>County:</u>	York
	<u>Previous Orders:</u>	18-225-RW (\$680.00)
	<u>Permit/ID Number:</u>	46-1013B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Venus TDG, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2019, and July 15, 2019, the pool 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: a handrail was missing a bolt cover; there was no foot rinse shower on the first inspection; the chlorine and pH levels were not within the acceptable range of water quality standards; the current pool operator of record information was not posted to the public; a ladder was missing bumpers; the foot rinse shower was not operating properly on the second inspection; the bound and numbered log book was not maintained on a daily basis; the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record; and, the cyanuric acid level was not recorded on a weekly basis in the bound and numbered log book.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand three hundred sixty dollars **(\$1,360.00)**.

128)	<u>Order Type and Number:</u>	Consent Order 19-172-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>YMCA of Greenville</b>
	<u>Facility:</u>	YMCA Greenville
	<u>Location:</u>	721 Cleveland Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-069-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: YMCA of Greenville (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On March 1, 2019, and July 25, 2019, the pool 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 lifeline floats were not properly spaced and were damaged; a ladder was missing bumpers; the chlorine and pH levels were not within the acceptable range of water quality standards; the "Shallow Water – No Diving Allowed" and the "No Lifeguard On Duty – Swim At Your Own Risk" signs were obstructed and the letters were faded; and, the bound and numbered log book was not maintained on a daily basis.

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

129)	<u>Order Type and Number:</u>	Consent Order 19-173-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>Hitchcock Heights Homeowners Association, Inc.</b>
	<u>Facility:</u>	Hitchcock Heights
	<u>Location:</u>	329 Laurens Street SW Aiken, SC 29801

<u>Mailing Address:</u>	Same
<u>County:</u>	Aiken
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	02-008-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hitchcock Heights Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 28, 2019, and July 10, 2019, the pool 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: a handrail was not tight and secure; a ladder was missing bumpers; the pH level was not within the acceptable range of water quality standards; a bolt cover was in disrepair; and, the foot rinse shower was not operating properly.

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

130)	<u>Order Type and Number:</u>	Consent Order 19-174-RW
	<u>Order Date:</u>	September 30, 2019
	<u>Individual/Entity:</u>	<b>Griffin Park Neighborhood Association, Inc.</b>
	<u>Facility:</u>	Griffin Park
	<u>Location:</u>	110 Carruth Street Simpsonville, SC 29680
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-1146C
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Griffin Park Neighborhood Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a kiddie pool. On July 9, 2019, and August 14, 2019, the kiddie pool 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 chlorine level was not within the acceptable range of water quality standards; and, the cyanuric acid level was above the water quality standards acceptable limit.

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

131)	<u>Order Type and Number:</u>	Consent Order 19-175-RW
	<u>Order Date:</u>	September 27, 2019
	<u>Individual/Entity:</u>	<b>The Pier at Clemson, LLC</b>
	<u>Facility:</u>	The Pier Apartments
	<u>Location:</u>	440 Edinburgh Way Seneca, SC 29678
	<u>Mailing Address:</u>	P.O. Box1823

<u>County:</u>	Clemson, SC 29631
<u>Previous Orders:</u>	Oconee 14-203-DW (\$800.00); 16-118-RW (\$680.00)
<u>Permit/ID Number:</u>	37-1018B & 37-1019D
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Pier at Clemson, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On June 12, 2019, and August 1, 2019, the pool and spa were inspected, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the water level was too high; there were chlorine sticks in the skimmer baskets; the drinking water fountain was not operating; the foot rinse shower was not operating; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring was deteriorated and did not have a permanently attached rope; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of three thousand, four hundred dollars **(\$3,400.00)**.

132) <u>Order Type and Number:</u>	Consent Order 19-180-RW
<u>Order Date:</u>	September 30, 2019
<u>Individual/Entity:</u>	<b>701 South Ocean Blvd., LLC</b>
<u>Facility:</u>	Bali Bay Resort
<u>Location:</u>	701 South Ocean Boulevard Myrtle Beach, SC 29577
<u>Mailing Address:</u>	215 South Broad Street, Suite 203 Philadelphia, PA 19107
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	26-1906D
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: 701 South Ocean Blvd., LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On July 8, 2019, July 19, 2019, and August 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 chlorine and pH levels were not within the acceptable range of water quality standards; the temperature of the spa was not monitored and posted to the public; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, forty dollars **(\$2,040.00)**.

### **Drinking Water Enforcement**

133)    Order Type and Number:                      Consent Order 19-017-DW  
          Order Date:                                      August 1, 2019  
          Individual/Entity:                              **Town of Cheraw**  
          Facility:                                        Town of Cheraw  
          Location:                                        1 Service Street  
   Cheraw, SC 29520  
          Mailing Address:                              P.O. Box 591  
   Cheraw, SC 29520  
          County:                                         Chesterfield  
          Previous Orders:                                None  
          Permit/ID Number:                            1310001  
          Violations Cited:                            S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: The Town of Cheraw (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On June 7, 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.

134)    Order Type and Number:                      Consent Order 19-018-DW  
          Order Date:                                      August 13, 2019  
          Individual/Entity:                              **Thomas Bodie, Individually and d.b.a. Quail Hollow Mobile Home Park**  
          Facility:                                        Quail Hollow Mobile Home Park  
          Location:                                        585 Yellow Ribbon Road  
   Aiken, SC 29803  
          Mailing Address:                                Same  
          County:                                         Aiken  
          Previous Orders:                                None  
          Permit/ID Number:                            0260063  
          Violations Cited:                            S.C. Code Ann. Regs. 61-58.17.K(1)

Summary: Thomas Bodie, Individually and d.b.a. Quail Hollow Mobile Home Park (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On June 24, 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.

136)	<u>Order Type and Number:</u>	Consent Order 19-047-W
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Alligator Rural Water &amp; Sewer Company Inc.</b>
	<u>Facility:</u>	Alligator Rural WWTF
	<u>Location:</u>	Farm Loop Road Chesterfield County, SC
	<u>Mailing Address:</u>	378 W Pine Avenue McBee, SC 29101
	<u>County:</u>	Chesterfield
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	ND0086746
	<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. 61-9.505.21(d) (1) and 41(a) (2011).	

Summary: Alligator Rural Water & Sewer Company, Inc. (Individual/Entity) was issued a permit for an unconstructed wastewater treatment facility (WWTF) to be located in McBee, Chesterfield County, South Carolina. On June 13, 2019, a Notice of Violation was issued as a result of the Individual/Entity's failure to submit an application for renewal of its State Land Application Permit within one hundred eighty (180) days of the expiration of the permit. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit an application for renewal of its State Land Application Permit within one hundred eighty (180) days of the expiration of the permit.

Action: The Individual/Entity is required to: submit an administratively complete application for renewal of its permit; and, pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

137)	<u>Order Type and Number:</u>	Consent Order 19-048-W
	<u>Order Date:</u>	August 8, 2019
	<u>Individual/Entity:</u>	<b>Property Owners of Parcels 15-19 of Piping Plover Road on Hilton Head Island, Carolina Dock and Marine LLC, and Henley's Construction Company Inc.</b>
	<u>Facility:</u>	Piping Plover Construction Project
	<u>Location:</u>	Piping Plover Road Beaufort, SC
	<u>Mailing Address:</u>	15 Piping Plover Road Beaufort, SC 29928
	<u>County:</u>	Beaufort
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	None
	<u>Violations Cited:</u>	Pollution Control Act, S.C Code Ann § 48-1 (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.26(a) (2011).

Summary: The Property Owners of Parcels 15-19 of Piping Plover Road on Hilton Head Island, Carolina Dock and Marine LLC, and Henley's Construction Company Inc. (Individuals/Entities) are responsible for initiating land disturbing activities that exceeded one-half (0.5) acre without proper authorization from the Department in Beaufort County, South Carolina. On January 18, 2019, a Notice of Violation was issued. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to obtain Department authorization prior to conducting land disturbing activities that exceed one-half (0.5) acre.

Action: The Individuals/Entities are required to: conduct no further work on the structure without first obtaining proper authorizations from the Department; and pay a civil penalty in the amount of fifteen thousand dollars **(\$15,000.00)**.



138)    Order Type and Number:                      Consent Order 19-050-W  
          Order Date:                                      August 8, 2019  
          Individual/Entity:                              **Town of Norway**  
          Facility:    Town of Norway WWTF  
          Location:    710 Winchester Avenue  
   Norway, SC 29113  
          Mailing Address:                              P.O. Box 127  
   Norway, SC 29113  
          County:    Orangeburg  
          Previous Orders:                                None  
          Permit/ID Number:                           NPDES Permit SC0045993  
          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: The Town of Norway (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Orangeburg County, South Carolina. On May 14, 2019, a Notice of Violation was issued as a result of violation of failure to comply with the reporting requirements of the National Pollutant Discharge Elimination System permit. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit a new Notice of Intent (NOI) or permit application 180 days before the existing permit expires.

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

139)    Order Type and Number:                      Consent Order 19-051-W  
          Order Date:                                      August 23, 2019  
          Individual/Entity:                              **Town of Jefferson**  
          Facility:    Jefferson WWTF  
          Location:    SC Highway 265  
   Chesterfield County, SC  
          Mailing Address:                              P.O. Box 306  
   Jefferson, SC 29718  
          County:    Chesterfield  
          Previous Orders:                                16-035-W (\$1,400.00)  
          Permit/ID Number:                           NPDES Permit SC0024767  
          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 Jefferson (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Chesterfield County, South Carolina. On January 15, 2019, a Notice of Violation was issued as a result of a violation of the permitted discharge limits for biochemical oxygen demand (BOD) as reported on the discharge monitoring report submitted to the Department for the November 2018 monthly monitoring period. The Individual/Entity also reported violations of the permitted discharge limits

for BOD for the October 2018, January 2019, and February 2019 monthly monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for BOD.

**Action:** The Individual/Entity is required to: complete the upgrade of the influent pump station and chemical feed system; submit to the Department a Corrective Action Plan (CAP) addressing compliance with the permitted discharge limits for BOD; a plan for securing funding for evaluation of the collection system; quarterly reports on progress toward securing funding; and, pay a civil penalty in the amount of seven hundred dollars **(\$700.00)**.

140)	<u>Order Type and Number:</u>	Consent Order 19-052-W
	<u>Order Date:</u>	August 23, 2019
	<u>Individual/Entity:</u>	<b>Lookup Forest Homes Association, Inc.</b>
	<u>Facility:</u>	Lookup Forest
	<u>Location:</u>	Located off U.S. Highway 25 and S.C. Highway 11, Tigerville, SC 29688
	<u>Mailing Address:</u>	P.O. Box 91 Tigerville, SC 29688
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	17-003-W (\$3,000.00)
	<u>Permit/ID Number:</u>	NPDES Permit SC0026379
	<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. 61-9.122.21(d) (2011).	

Summary: Lookup Forest Homes Association, Inc., (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Greenville County, South Carolina. On March 13, 2019, a Notice of Violation was issued as a result of violation of failure to comply with the reporting requirements of the National Pollutant Discharge Elimination System permit. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit a new Notice of Intent (NOI) or permit application 180 days before the existing permit expires. The NOI or application was due on or before March 4, 2019.

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

141)	<u>Order Type and Number:</u>	Consent Order 19-053-W
	<u>Order Date:</u>	September 6, 2019
	<u>Individual/Entity:</u>	<b>Town of Cheraw</b>
	<u>Facility:</u>	Cheraw WWTF
	<u>Location:</u>	Roddy Street
		Chesterfield County, SC
	<u>Mailing Address:</u>	P.O. Box 219
		Cheraw, SC 29520

County: Chesterfield  
Previous Orders: 17-002-W (\$1,000.00);  
17-009-W (\$2,240.00)  
Permit/ID Number: NPDES Permit SC0020249  
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 Cheraw (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Chesterfield County, South Carolina. On June 19, 2019, a Notice of Violation was issued as a result of a violation of the permitted discharge limits for Biochemical Oxygen Demand (BOD) as reported on the discharge monitoring report submitted to the Department for the February 2019 and March 2019 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 its National Pollutant Discharge Elimination System (NPDES) permit for BOD.

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

142) Order Type and Number: Consent Order 19-054-W  
Order Date: September 6, 2019  
Individual/Entity: **Town of Pendleton**  
Facility: Clemson Regional WWTF  
Location: 865 Woodburn Road  
Pendleton, SC 29670  
Mailing Address: 310 Greenville Street  
Pendleton, SC 29670-1419  
County: Anderson  
Previous Orders: None  
Permit/ID Number: NPDES Permit SC0035700  
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 Pendleton (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 April 17, 2019, a Notice of Violation was issued as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) as reported on discharge monitoring reports submitted to the Department. 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 compliance with the permitted discharge limits for E. coli; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

- |      |                               |   |
|------|-------------------------------|---|
| 144) | <u>Order Type and Number:</u> | Consent Order 19-057-W  |
|      | <u>Order Date:</u>            | September 11, 2019  |
|      | <u>Individual/Entity:</u>     | <b>S.C. United Methodist Camp &amp; Retreat Ministries</b>  |
|      | <u>Facility:</u>              | Asbury Hills Camp and Retreat Center WWTF   |
|      | <u>Location:</u>              | 150 Asbury Drive<br>Cleveland, SC 29635-9748  |
|      | <u>Mailing Address:</u>       | 5 Century Drive, Suite 250<br>Greenville, SC 29607  |
|      | <u>County:</u>                | Greenville  |
|      | <u>Previous Orders:</u>       | None  |
|      | <u>Permit/ID Number:</u>      | NPDES Permit SC0029742  |
|      | <u>Violations Cited:</u>      | Pollution Control Act, S.C Code Ann § 48-1- 110<br>(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41<br>(a) and (d) (2011). |

Summary: S.C. United Methodist Camp and Retreat Ministries (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Greenville County, South Carolina. On May 9, 2019, a Notice of Violation was issued as a result of violations of the permitted discharge limits for Fecal Coliform (FC) as reported on discharge monitoring reports submitted to the Department. 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 FC.

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

145) Order Type and Number: Consent Order 19-058-W  
Order Date: September 17, 2019  
Individual/Entity: **Twin Tigers, LLC**  
Facility: Twin Tigers, LLC construction site  
Location: 15479 SC Highway 11, Salem, SC  
Oconee County, SC  
Mailing Address: 103 Riverbirch Run  
Clemson, SC 29631  
County: Oconee  
Previous Orders: None  
Permit/ID Number: NPDES Coverage No. SCR10Z0MJ  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 90(A)  
(Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (e)  
(2011).

Summary: Twin Tigers, LLC (Individual/Entity) is responsible for land disturbing activity on property located in Oconee County, South Carolina. On February 22, 2019, a Warning Notice was issued to the Individual/Entity as a result of failure to maintain sediment and erosion controls and unauthorized discharges of sediment associated with construction. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation 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, and failed to install and maintain storm water, sediment, and erosion control measures in accordance with the approved Storm Water Pollution Prevention Plan (SWPPP).

Action: The Individual/Entity is required to: submit a revised SWPPP; submit an engineer's report stating the site is in compliance with the approved SWPPP; submit a Notice of Termination upon stabilization of the site; and, pay a civil penalty in the amount of six thousand, eight hundred dollars **(\$6,800.00)**.

146) Order Type and Number: Consent Order 19-059-W  
Order Date: September 20, 2019  
Individual/Entity: **Town of Williamston**  
Facility: Town of Williamston WWTF

Location: 59 Gate Court  
Williamston, SC 29697  
Mailing Address: P.O. Box 70  
Williamston, SC 29697-0070  
County: Anderson  
Previous Orders: 16-025-W (\$7,200.00)  
Permit/ID Number: NPDES Permit SC0046841  
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 Williamston (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 March 15, 2019, a Notice of Violation was issued as a result of violations of the permitted discharge limits for Escherichia (E. coli) as reported on discharge monitoring reports submitted to the Department. 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 to the Department quarterly reports summarizing improvements made to its wastewater collection system; complete a series of sewer improvement projects; complete the inspection of all manholes in the wastewater collection system; and complete cleaning and closed-circuit televising (CCTV) of the wastewater collection system.

147) Order Type and Number: Consent Order 19-060-W  
Order Date: September 27, 2019  
Individual/Entity: **Blue Granite Water Company**  
Facility: Watergate WWTF  
Location: 1570 Old Chapin Road  
Lexington County, SC  
Mailing Address: 130 South Main Street, Suite 800  
Greenville, SC 29601  
County: Lexington  
Previous Orders: 15-044-W (\$2,800.00)  
Permit/ID Number: NPDES Permit SC0027162  
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: Blue Granite Water Company (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Watergate Wastewater Treatment Facility (WWTF) located in Lexington County, South Carolina. On April 19, 2019, sludge was pumped from the Watergate WWTF and deposited into another WWTF, no longer in operation and owned by the Individual/Entity. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to properly dispose of sludge from the WWTF.

Action: The Individual/Entity is required to pay a civil penalty in the amount of eight thousand, two hundred twenty-five dollars **(\$8,225.00)**.

148)    Order Type and Number:                      Consent Order 19-061-W  
          Order Date:                                        September 27, 2019  
          Individual/Entity:                                **Kentucky-Tennessee Clay Company**  
          Facility:    Gentry Pit WWTF  
          Location:     385 Huber Clay Road  
   Langley, SC 29851  
          Mailing Address:                                618 Kaolin Road  
   Sandersville, GA 31082  
  
          County:    Aiken  
          Previous Orders:                                   None  
          Permit/ID Number:                               SC0046388  
          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: The Kentucky-Tennessee Clay Company (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Aiken County, South Carolina. On April 17, 2019, a Notice of Violation was issued for failing to submit application for renewal at least one hundred eighty (180) days prior to the expiration date of its National Pollutant 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 a permit re-application package 180 days before the existing permit expires.

Action: The Individual/Entity is required to: submit an administratively complete application for renewal of its NPDES Permit; continue operation of its WWTF in accordance with its NPDES permit; and, pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

#### **BUREAU OF AIR QUALITY**

149)    Order Type and Number:                      Consent Order 19-020-A  
          Order Date:                                        August 28, 2019  
          Individual/Entity:                                **Owen Electric Steel Company of South  
Carolina, d.b.a CMC Steel South Carolina**  
          Facility:    Owen Electric Steel Company of South Carolina,  
   d.b.a CMC Steel South Carolina  
          Location:    310 New State Road  
   Cayce, SC 29033  
          Mailing Address:                                Same  
          County:    Lexington  
          Previous Orders:                                    14-040-A (\$6,500.00)  
          Permit/ID Number:                                1560-0087

Violations Cited:  
Requirements

5 S.C. Code Ann. Regs 61-62.1, Section II, *Permit*

Summary: Owen Electric Steel Company of South Carolina, d.b.a CMC Steel South Carolina (Individual/Entity) operates a steel mini-mill located in Cayce, South Carolina. A Department-approved performance test on the melt shop baghouse to demonstrate compliance with its PM emissions limit was conducted on April 2, 2018. The Individual/Entity has violated the South Carolina Air Pollution Control Regulations as follows: failed to comply with the Title V Permit's PM emission limit as established pursuant to BACT analysis.

Action: The Individual/Entity is required to: limit PM emissions from EP-1 as required by their permit and pay a civil penalty in the amount of five thousand dollars **(\$5,000.00)**.

150) Order Type and Number: Consent Order 19-021-A  
Order Date: September 17, 2019  
Individual/Entity: **Ms. Shery Simmons**  
Facility: N/A  
Location: 127 Blount Road  
Anderson, SC 29627  
Mailing Address: Same  
County: Anderson  
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. Shery Simmons (Individual/Entity), is the owner of the property located in Anderson, South Carolina. The Department conducted an open burning investigation on December 21, 2018, in response to a complaint. The Individual/Entity has violated South Carolina Air Pollution Control Regulations in that materials burned were other than those specifically allowed by Section I of the regulation.

Action: The Individual/Entity is required to: cease all open burning except in accordance with the open burning regulations; and pay a civil penalty in the amount of four thousand **(\$750.00)**.

151) Order Type and Number: Consent Order 19-023-A  
Order Date: September 20, 2019  
Individual/Entity: **Huntington Foam LLC**  
Facility: Huntington Foam LLC  
Location: 125 Caliber Ridge Drive  
Greer SC 29651  
Mailing Address: Same  
County: Spartanburg  
Previous Orders: 17-026-A (\$14,000.00)  
Permit/ID Number: 2060-0507



Violations Cited: 5 S.C. Code Ann. Regs 61-62.1, Section II, *Permit Requirements* and Consent Order 17-026-A

Summary: Huntington Foam LLC (Individual/Entity), located in Greer, South Carolina, manufactures custom molded foam packaging materials. The Individual/Entity conducted a Department-approved performance test on Boiler 2 to demonstrate compliance with its NOx emission limits on May 10, 2017. A comprehensive inspection was conducted on December 4, 2018. The Individual/Entity has violated the South Carolina Air Pollution Control Regulation as follows: failed to maintain records of daily operation necessary to demonstrate that Boiler 2 did not exceed a Department-imposed operational limit of 7 MMBtu/hr and failed to maintain a copy of the most recent Department-issued source test summary letter for Boiler 2.

Action: The Individual/Entity is required to: ensure that all boilers are operated in accordance with applicable operating parameters established by the Department; maintain records of daily operation necessary to demonstrate compliance with applicable operational limits; and, pay a civil penalty in the amount of fourteen thousand dollars **(\$14,000.00)**.

## **BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

### **Food Safety Enforcement**

152) Order Type and Number: Administrative Order 2019-206-03-057  
Order Date: September 10, 2019  
Individual/Entity: **Rhea McCary, D/B/A Ray's Diner**  
Facility: Rhea McCary, D/B/A Ray's Diner  
Location: 3110 Two Notch Road  
Columbia, SC 29204  
Mailing Address: Same  
County: Richland  
Previous Orders: None  
Permit Number: 40-206-07293  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Ray's Diner (Individual/Entity), located in Columbia, South Carolina, is a restaurant. The Department conducted inspections on June 8, 2017, June 8, 2018, and May 28, 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)**.

153)    Order Type and Number:                      Consent Order 2019-206-01-030  
          Order Date:                                      August 1, 2019  
          Individual/Entity:                              **Hardee's #1501697**  
          Facility:                                         Hardee's #1501697  
          Location:                                        110 West Greenwood Street  
   Abbeville SC, 29620  
          Mailing Address:                              2901 W. Beltline Highway, Suite 201  
   Madison, WI 53173  
          County:    Abbeville  
          Previous Orders:                                None  
          Permit Number:                                01-206-00944  
          Violations Cited:                              S.C. Code Ann. Regs. 61-25

Summary: Hardee's #1501697 (Individual/Entity) is a restaurant located in Abbeville, South Carolina. The Department conducted inspections on April 16, 2019, April 23, 2019, and May 3, 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)**.

154)    Order Type and Number:                      Consent Order 2019-206-01-038  
          Order Date:                                      August 1, 2019  
          Individual/Entity:                              **Nagoya**  
          Facility:                                         Nagoya  
          Location:                                        4423 Highway 24  
   Anderson, SC 29626  
          Mailing Address:                                Same  
          County:    Anderson  
          Previous Orders:                                2018-206-01-005 (\$1,000.00);  
   2018-206-01-043 (\$800.00)  
          Permit Number:                                04-206-04171  
          Violations Cited:                              S.C. Code Ann. Regs. 61-25

Summary: Nagoya (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on December 5, 2017, June 6, 2018, and May 16, 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; failed to ensure that equipment is maintained in a state of repair and condition that meets the regulation requirements; failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces clean and free of accumulation of dust, dirt, food residue, and other debris; and failed to clean the physical facility's 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 five hundred dollars **(\$500.00)**.

155) Order Type and Number: Consent Order 2019-206-02-043  
Order Date: August 1, 2019  
Individual/Entity: **Growler Haus**  
Facility: Growler Haus  
Location: 12 Lois Avenue  
Greenville SC, 29611  
Mailing Address: 2407 West North Avenue  
Anderson, SC 29625  
County: Greenville  
Previous Orders: None  
Permit Number: 23-206-11724  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Growler Haus (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on October 4, 2017, July 27, 2018, May 21, 2019, and May 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

156) Order Type and Number: Consent Order 2019-206-02-045  
Order Date: August 1, 2019  
Individual/Entity: **Rick Erwin's Deli & Market**  
Facility: Rick Erwin's Deli & Market  
Location: 101 West Camperdown Way, Suite 100  
Greenville SC, 29601  
Mailing Address: 40 West Broad Street  
Greenville, SC 29601  
County: Greenville  
Previous Orders: 2016-206-02-021 (\$1,200.00);  
2018-206-02-059 (\$800.00)  
Permit Number: 23-206-10665  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Rick Erwin's Deli & Market (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on May 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the

temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

157)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-069
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>No. 1 China</b>
	<u>Facility:</u>	No. 1 China
	<u>Location:</u>	2329 Augusta Road West Columbia SC, 29169
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	2019-206-03-038 (\$800.00)
	<u>Permit Number:</u>	32-206-02483
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: No. 1 China (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on June 4, 2018, April 9, 2019, and June 4, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

158)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-071
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Dragon City Buffet</b>
	<u>Facility:</u>	Dragon City Buffet
	<u>Location:</u>	2410 Augusta Road West Columbia, SC 29169
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	32-206-06703
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Dragon City Buffet (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on March 29, 2018, August 21, 2018, and June 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)**.

159) Order Type and Number: Consent Order 2019-206-04-026  
Order Date: August 1, 2019  
Individual/Entity: **Jims's Variety Store**  
Facility: Jims's Variety Store  
Location: 719 East McGregor Street  
Pageland, SC 29728  
Mailing Address: Same  
County: Chesterfield  
Previous Orders: None  
Permit Number: 13-206-00824  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jims's Variety Store (Individual/Entity) is a restaurant located in Pageland, South Carolina. The Department conducted inspections on June 20, 2017, June 7, 2018, April 18, 2019, April 24, 2019, May 3, 2019, and May 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 eight hundred dollars **(\$800.00)**.

160) Order Type and Number: Consent Order 2019-206-04-030  
Order Date: August 1, 2019  
Individual/Entity: **Hot Spot/Hardee's #2501**  
Facility: Hot Spot/Hardee's #2501  
Location: 4461 Highway 76  
Marion, SC 29571  
Mailing Address: P.O. Box 2527  
Spartanburg, SC 29304  
County: Marion  
Previous Orders: None  
Permit Number: 33-206-00812  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hot Spot/Hardee's #2501 (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on November 21, 2017, October 26, 2018, and May 6, 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)**.

161)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-031
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Hibachi Grill</b>
	<u>Facility:</u>	Hibachi Grill
	<u>Location:</u>	2600 David McLeod Boulevard, Unit 1 Florence, SC 29501
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	21-206-02596
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Hibachi Grill (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on June 26, 2018, December 17, 2018, and May 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 eight hundred dollars **(\$800.00)**.

162)	<u>Order Type and Number:</u>	Consent Order 2019-206-05-012
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Church's Chicken #1446</b>
	<u>Facility:</u>	Church's Chicken #1446
	<u>Location:</u>	2390 Prince of Orange Mall Orangeburg SC, 29115
	<u>Mailing Address:</u>	980 Hammond Drive, Suite 1100 Atlanta, GA 30328
	<u>County:</u>	Orangeburg
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	38-206-02737
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Church's Chicken #1446 (Individual/Entity) is a restaurant located in Orangeburg, South Carolina. The Department conducted inspections on June 21, 2019, June 22, 2019, and June 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; 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)**.

163)	<u>Order Type and Number:</u>	Consent Order 2019-206-05-014
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Mi Rancho #4</b>
	<u>Facility:</u>	Mi Rancho #4
	<u>Location:</u>	11553 Dumbarton Boulevard Barnwell SC, 29812
	<u>Mailing Address:</u>	P.O. Box 1319 Clearwater, SC 29822
	<u>County:</u>	Barnwell
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	06-206-00372
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Mi Rancho #4 (Individual/Entity) is a restaurant located in Barnwell, South Carolina. The Department conducted inspections on April 29, 2019, June 7, 2019, June 17, 2019, and June 27, 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)**.

164)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-082
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Hooters S Myrtle Beach</b>
	<u>Facility:</u>	Hooters S Myrtle Beach
	<u>Location:</u>	3901 North Kings Highway Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	1815 The Exchange Atlanta, GA 30339
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-11751
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Hooters S Myrtle Beach (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on July 10, 2018, December 27, 2018,

and May 31, 2019. The Individual/Entity has 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)**.

165)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-083
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Landmark Gazebo Restaurant</b>
	<u>Facility:</u>	Landmark Gazebo Restaurant
	<u>Location:</u>	1501 South Ocean Boulevard Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	2017-206-06-123 (\$800.00); 2019-206-06-002 (\$800.00); 2019-206-06-018 (\$200.00)
	<u>Permit Number:</u>	26-206-06766
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Landmark Gazebo Restaurant (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on May 20, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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 fifty dollars **(\$250.00)**.

166)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-092
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Snooky's on the Water</b>
	<u>Facility:</u>	Snooky's on the Water
	<u>Location:</u>	4495 Baker Street Little River, SC 29566
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-13569
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Snooky's on the Water (Individual/Entity) is a restaurant located in Little River, South Carolina. The Department conducted inspections on June 26, 2018, July 6, 2018, and July 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 eight hundred dollars **(\$800.00)**.

167)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-043
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Church's Chicken #758</b>
	<u>Facility:</u>	Church's Chicken #758
	<u>Location:</u>	6138 Rivers Avenue North Charleston, SC 29406
	<u>Mailing Address:</u>	980 Hammond Drive, Suite 100 Atlanta, GA 30328
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-11230
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Church's Chicken #758 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on June 21, 2018, July 3, 2018, April 16, 2019, and April 24, 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 four hundred dollars **(\$400.00)**.

168)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-056
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>China Buffet</b>
	<u>Facility:</u>	China Buffet
	<u>Location:</u>	7800 Rivers Avenue North Charleston, SC 29406
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2015-206-07-085 (\$800.00); 2017-206-07-002 (\$1,200.00)
	<u>Permit Number:</u>	10-206-03425
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: China Buffet (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on August 16, 2018, December 18, 2018, and May

29, 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)**.

169)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-057
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Rio Grande Mexican Restaurant</b>
	<u>Facility:</u>	Rio Grande Mexican Restaurant
	<u>Location:</u>	1975 Magwood Drive, Unit B Charleston, SC 29414
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-10381
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Rio Grande Mexican Restaurant (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on August 2, 2018, May 22, 2019, and May 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 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)**.

170)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-066
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>John King Grill &amp; Bar</b>
	<u>Facility:</u>	John King Grill & Bar
	<u>Location:</u>	428 King Street Charleston, SC 29403
	<u>Mailing Address:</u>	P.O. Box 21103 Charleston, SC 29413
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-10038
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: John King Grill & Bar (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on January 2, 2018, December 27, 2018, and June 18, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment

Regulation as follows: 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 two hundred dollars **(\$200.00)**.

171)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-068
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Basil Restaurant</b>
	<u>Facility:</u>	Basil Restaurant
	<u>Location:</u>	460 King Street Charleston, SC 29403
	<u>Mailing Address:</u>	P.O. Box 20517 Charleston, SC 29413
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-04210
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Basil Restaurant (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on August 8, 2017, July 11, 2018, May 23, 2019, and May 31, 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 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, two hundred dollars **(\$1,200.00)**.

172)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-070
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Star's Restaurant</b>
	<u>Facility:</u>	Star's Restaurant
	<u>Location:</u>	495 King Street Charleston, SC 29403
	<u>Mailing Address:</u>	161 East Bay Street Charleston, SC 29401
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2018-206-07-076 (\$400.00)
	<u>Permit Number:</u>	10-206-08315
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Star's Restaurant (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on November 28, 2017, November 1, 2018, and June 10, 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; failed to maintain proper holding temperatures of time/temperature control for safety foods; 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 one thousand, two hundred fifty dollars **(\$1,250.00)**.

173)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-073
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>G &amp; C Jayden INC.</b>
	<u>Facility:</u>	G & C Jayden INC.
	<u>Location:</u>	1077 King Street Charleston, SC 29403
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2018-206-07-038 (\$800.00)
	<u>Permit Number:</u>	10-206-09814
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: G & C Jayden, INC. (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted an inspection on June 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

174)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-074
	<u>Order Date:</u>	August 1, 2019
	<u>Individual/Entity:</u>	<b>Zaxby's</b>
	<u>Facility:</u>	Zaxby's
	<u>Location:</u>	3476 Shelby Ray Court Charleston, SC 29414
	<u>Mailing Address:</u>	P.O. Box 429 Bostwick, GA 30623
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-06752

Violations Cited:

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

Summary: Zaxby's (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on October 17, 2017, October 9, 2018, October 16, 2018, May 29, 2019, June 7, 2019, June 12, 2019, and June 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide a written plan for the restriction, exclusion and re-instatement of food employees when they have symptoms and/or diseases that are transmissible through food; failed to ensure that the handwashing sinks were accessible at all times; 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 keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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 thousand, seven hundred fifty dollars **(\$2,750.00)**.

175) <u>Order Type and Number:</u>	Consent Order 2019-206-08-001
<u>Order Date:</u>	August 1, 2019
<u>Individual/Entity:</u>	<b>Parker's #58</b>
<u>Facility:</u>	Parker's #58
<u>Location:</u>	12 Savannah Highway Beaufort, SC 29906
<u>Mailing Address:</u>	17 West McDonough Street Savannah, GA 31401
<u>County:</u>	Beaufort
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	07-206-02731
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Parker's #58 (Individual/Entity) is a restaurant located in Beaufort, South Carolina. The Department conducted inspections on May 15, 2018, April 17, 2019, April 25, 2019, and May 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 one thousand, six hundred dollars **(\$1,600.00)**.

176) <u>Order Type and Number:</u>	Consent Order 2019-206-08-002
<u>Order Date:</u>	August 1, 2019
<u>Individual/Entity:</u>	<b>Sake House of Beaufort Inc.</b>
<u>Facility:</u>	Sake House of Beaufort Inc.
<u>Location:</u>	274 Robert Smalls Parkway

<u>Mailing Address:</u>	Beaufort, SC 29906
<u>County:</u>	Same
<u>Previous Orders:</u>	Beaufort
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	07-206-02787
	S.C. Code Ann. Regs. 61-25

Summary: Sake House of Beaufort Inc. (Individual/Entity) is a restaurant located in Beaufort, South Carolina. The Department conducted inspections on July 16, 2018, November 27, 2018, December 7, 2018, May 23, 2019, May 28, 2019, and June 6, 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; failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; 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 one thousand, eight hundred dollars **(\$1,800.00)**.

177)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-032
	<u>Order Date:</u>	August 2, 2019
	<u>Individual/Entity:</u>	<b>Jack in The Box #6419</b>
	<u>Facility:</u>	Jack in The Box #6419
	<u>Location:</u>	4113 Clemson Boulevard
		Anderson, SC 29621
	<u>Mailing Address:</u>	3620 Pelham Road, PMB #318
		Greenville, SC 29615
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	04-206-04182
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Jack in The Box #6419 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on April 25, 2019, May 3, 2019, and May 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 four hundred dollars **(\$400.00)**.

178)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-039
	<u>Order Date:</u>	August 2, 2019
	<u>Individual/Entity:</u>	<b>Vaqueros Mexican Restaurant</b>
	<u>Facility:</u>	Vaqueros Mexican Restaurant

Location: 133 East Queen Street  
Pendleton, SC 29670  
Mailing Address: Same  
County: Anderson  
Previous Orders: 2018-206-01-028 (\$800.00)  
Permit Number: 04-206-03745  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Vaqueros Mexican Restaurant (Individual/Entity) is a restaurant located in Pendleton, South Carolina. The Department conducted an inspection on May 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)**.

179) Order Type and Number: Consent Order 2019-206-01-043  
Order Date: August 2, 2019  
Individual/Entity: **Pot Belly Deli**  
Facility: Pot Belly Deli  
Location: 109 Wall Street  
Clemson, SC 29631  
Mailing Address: Same  
County: Pickens  
Previous Orders: None  
Permit Number: 39-206-01004  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Pot Belly Deli (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted inspections on August 29, 2017, July 5, 2018, and June 17, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure there was no bare hand contact with ready-to-eat 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)**.

180) Order Type and Number: Consent Order 2019-206-02-033  
Order Date: August 2, 2019  
Individual/Entity: **Cafe & Then Some**  
Facility: Cafe & Then Some  
Location: 101 College Street  
Greenville, SC 29601  
Mailing Address: Same  
County: Greenville

<u>Previous Orders:</u>	None
<u>Permit Number:</u>	23-206-04058
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Cafe & Then Some (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on October 19, 2016, July 19, 2017, May 8, 2018, and May 2, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of two thousand dollars **(\$2,000.00)**.

181)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-086
	<u>Order Date:</u>	August 2, 2019
	<u>Individual/Entity:</u>	<b>Paradise Pancake and Omelet</b>
	<u>Facility:</u>	Paradise Pancake and Omelet
	<u>Location:</u>	1201 South Kings Highway Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-12291
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Paradise Pancake and Omelet (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on June 14, 2018, December 11, 2018, and June 3, 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)**.

182)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-103
	<u>Order Date:</u>	August 2, 2019
	<u>Individual/Entity:</u>	<b>Denny's</b>
	<u>Facility:</u>	Denny's
	<u>Location:</u>	1200 US Highway 17 North Surfside Beach, SC 29575
	<u>Mailing Address:</u>	2160 Scenic Highway North Snellville, GA 30078



<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	26-206-12291
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Denny's (Individual/Entity) is a restaurant located in Surfside Beach, South Carolina. The Department conducted inspections on July 5, 2018, December 4, 2018, April 17, 2019, April 18, 2019, April 25, 2019, June 4, 2019, and June 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep equipment food contact surfaces and utensils clean to sight and touch; failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces clean and free of accumulation of dust, dirt, food residue, and other debris; failed to ensure that equipment is maintained in a state of repair and condition that meets the regulation requirements; failed to maintain proper holding temperatures of time/temperature control for safety foods; failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; 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; and failed to ensure that physical facilities were maintained 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 three thousand, two hundred dollars **(\$3,200.00)**.

183) <u>Order Type and Number:</u>	Consent Order 2019-204-07-002
<u>Order Date:</u>	August 5, 2019
<u>Individual/Entity:</u>	<b>La Taqueria Express</b>
<u>Facility:</u>	La Taqueria Express
<u>Location:</u>	2709 Ashley Phosphate Road Charleston, SC 29565
<u>Mailing Address:</u>	Same
<u>County:</u>	Charleston
<u>Permit Number:</u>	10-204-10690
<u>Previous Orders:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: La Taqueria Express (Individual/Entity) is a mobile unit located in Charleston, South Carolina. The Department conducted inspections on June 29, 2017, June 6, 2018, June 5, 2019, and June 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, six hundred dollars **(\$1,600.00)**.

184)    Order Type and Number:                      Consent Order 2019-206-01-047  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **Taqueria Guanajuato**  
          Facility:    Taqueria Guanajuato  
          Location:     117 East Church Street  
   Saluda, SC 29138  
          Mailing Address:                                218 South Jennings Street  
   Saluda, SC 29138  
          County:     Saluda  
          Previous Orders:                                  None  
          Permit Number:                                41-206-00767  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary:        Taqueria Guanajuato (Individual/Entity) is a restaurant located in Saluda, South Carolina. The Department conducted inspections on September 10, 2018, March 1, 2019, March 14, 2019, March 21, 2019, May 3, 2019, May 13, 2019, and May 23, 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 one thousand dollars **(\$1,000.00)**.

185)    Order Type and Number:                      Consent Order 2019-206-02-049  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **OJ's Diner**  
          Facility:    OJ's Diner  
          Location:     907 Pendleton Street  
   Greenville, SC 29601  
          Mailing Address:                                Same  
          County:     Greenville  
          Previous Orders:                                  2016-206-02-023 (\$800.00);  
   2018-206-02-002 (\$800.00);  
   2018-206-02-038 (\$800.00)  
          Permit Number:                                23-206-08630  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary:        OJ's Diner (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on June 25, 2018, March 21, 2019, and June 28, 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)**.

186)    Order Type and Number:                      Consent Order 2019-206-03-067  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **Polliwogs**  
          Facility:    Polliwogs  
          Location:    1025 Woodley Way  
   Columbia, SC 29223  
  
          Mailing Address:                                Same  
          County:    Richland  
          Previous Orders:                                 None  
          Permit Number:                                40-206-06551  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Polliwogs (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on June 11, 2018, May 28, 2019, and June 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)**.

187)    Order Type and Number:                      Consent Order 2019-206-04-039  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **Kings Pizza of Latta**  
          Facility:    Kings Pizza of Latta  
          Location:    241 South Richardson Street  
   Latta, SC 29565  
  
          Mailing Address:                                Same  
          County:    Dillon  
          Permit Number:                                17-206-00519  
          Previous Orders:                                 None  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary:        Kings Pizza of Latta (Individual/Entity) is a restaurant located in Latta, South Carolina. The Department conducted inspections on January 10, 2018, November 6, 2018, and May 29, 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)**.

188)    Order Type and Number:                      Consent Order 2019-206-07-061  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **La Taqueria Express**  
          Facility:    La Taqueria Express  
          Location:    2709 Ashley Phosphate Road  
   Charleston, SC 29565  
  
          Mailing Address:                                Same  
          County:    Charleston  
          Permit Number:                                10-206-10656  
          Previous Orders:                                None  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary:    La Taqueria Express (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on June 29, 2017, June 6, 2018, and June 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

189)    Order Type and Number:                      Consent Order 2019-206-07-071  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **Chopsticks House**  
          Facility:    Chopsticks House  
          Location:    86 Society Street  
   Charleston, SC 29565  
  
          Mailing Address:                                Same  
          County:    Charleston  
          Permit Number:                                10-206-07287  
          Previous Orders:                                2018-206-07-078 (\$800.00)  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary:    Chopsticks House (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted an inspection on June 12, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

190)    Order Type and Number:                      Consent Order 2019-206-07-078  
          Order Date:                                        August 5, 2019  
          Individual/Entity:                                **Concessions B, C & D**  
          Facility:    Concessions B, C & D  
          Location:     360 Fishburne Street  
   Charleston, SC 29565  
  
          Mailing Address:                                Same  
          County:    Charleston  
          Permit Number:                                  17-206-02617  
          Previous Orders:                                  None  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Concessions B, C & D (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on June 13, 2019, June 20, 2019, and June 27, 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)**.

191)    Order Type and Number:                      Consent Order 2019-206-02-047  
          Order Date:                                        August 7, 2019  
          Individual/Entity:                                **Biscuit Head**  
          Facility:    Biscuit Head  
          Location:     823 South Church Street, Suite C  
   Greenville, SC 29601  
  
          Mailing Address:                                P.O. Box 9354  
   Asheville, NC 28815  
  
          County:    Greenville  
          Previous Orders:                                  2018-206-02-070 (\$800.00)  
          Permit Number:                                  23-206-11440  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Biscuit Head (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on March 22, 2018, July 1, 2019, July 2, 2019, and July 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.

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)**.

192)    Order Type and Number:                      Consent Order 2019-206-04-029  
          Order Date:                                        August 7, 2019  
          Individual/Entity:                                **Palms Course MGT/Pro Shop**  
          Facility:    Palms Course MGT/Pro Shop  
          Location:     3700 West Lake Drive  
   Florence, SC 29501  
          Mailing Address:                                Same  
          County:    Florence  
          Previous Orders:                                None  
          Permit Number:                                23-206-08630  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Palms Course MGT/Pro Shop (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on July 5, 2018, April 29, 2019, and May 9, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

193)    Order Type and Number:                      Consent Order 2019-206-04-037  
          Order Date:                                        August 7, 2019  
          Individual/Entity:                                **In & Out Mini-Mart**  
          Facility:    In & Out Mini-Mart  
          Location:     1210 West McGregor Street  
   Pageland, SC 29728  
          Mailing Address:                                Same  
          County:    Chesterfield  
          Previous Orders:                                None  
          Permit Number:                                13-206-00773  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: In & Out Mini-Mart (Individual/Entity) is a restaurant located in Pageland, South Carolina. The Department conducted inspections on March 23, 2017, March 14, 2018, October 3, 2018, and May 21, 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; 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; failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks;

failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; and 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 thousand dollars **(\$2,000.00)**.

194)	<u>Order Type and Number:</u>	Consent Order 2019-206-05-015
	<u>Order Date:</u>	August 7, 2019
	<u>Individual/Entity:</u>	<b>Pizza Hut #22501</b>
	<u>Facility:</u>	Pizza Hut #22501
	<u>Location:</u>	10550 Dunbarton Boulevard Barnwell, SC 29812
	<u>Mailing Address:</u>	P.O. Box 49099 Greenwood, SC 29649
	<u>County:</u>	Barnwell
	<u>Permit Number:</u>	06-206-00222
	<u>Previous Orders:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Pizza Hut #22501 (Individual/Entity) is a restaurant located in Barnwell, South Carolina. The Department conducted inspections on August 13, 2018, January 17, 2019, and June 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, foods with expired time labels, 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)**.

195)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-062
	<u>Order Date:</u>	August 7, 2019
	<u>Individual/Entity:</u>	<b>Magnolia Gardens/Peacock Cafe</b>
	<u>Facility:</u>	Magnolia Gardens/Peacock Cafe
	<u>Location:</u>	3550 Ashley River Road Charleston, SC 29414
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number</u>	10-206-00059
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Magnolia Gardens/Peacock Cafe (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on July 26, 2016, July 13, 2017, June 7, 2018, and June 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 one thousand, three hundred fifty dollars **(\$1,350.00)**.

196)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-065
	<u>Order Date:</u>	August 7, 2019
	<u>Individual/Entity:</u>	<b>New York City Pizza</b>
	<u>Facility:</u>	New York City Pizza
	<u>Location:</u>	190 East Bay Street, Unit 102 Charleston, SC 29401
	<u>Mailing Address:</u>	P.O. Drawer Box 11 Hilton Head Island, SC 29938
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2016-206-07-050 (\$800.00); 2018-206-07-021 (\$800.00)
	<u>Permit Number:</u>	10-206-08832
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: New York City Pizza (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted an inspection on June 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 one thousand dollars **(\$1,000.00)**.

197)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-076
	<u>Order Date:</u>	August 7, 2019
	<u>Individual/Entity:</u>	<b>Virginia's on King</b>
	<u>Facility:</u>	Virginia's on King
	<u>Location:</u>	412 King Street Charleston, SC 29043
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2018-206-07-013 (\$1,350.00)
	<u>Permit Number:</u>	10-206-06339
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Virginia's on King (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on April 18, 2018, June 27, 2018, and June 25, 2019. The Individual/Entity 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 fifty dollars **(\$250.00)**.

198)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-032
	<u>Order Date:</u>	August 8, 2019
	<u>Individual/Entity:</u>	<b>Compadres MexMex Grill</b>
	<u>Facility:</u>	Compadres MexMex Grill
	<u>Location:</u>	929 South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	2016-206-02-024 (\$800.00); 2018-206-02-052 (\$800.00)
	<u>Permit Number:</u>	23-206-09329
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Compadres MexMex Grill (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on November 6, 2017, August 6, 2018, 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; and failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

199)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-028
	<u>Order Date:</u>	August 9, 2019
	<u>Individual/Entity:</u>	<b>Foxes Corner II</b>
	<u>Facility:</u>	Foxes Corner II
	<u>Location:</u>	1546 Lakeview Boulevard Hartsville, SC 29505
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	16-206-03150
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Foxes Corner II (Individual/Entity) is a restaurant located in Hartsville, South Carolina. The Department conducted inspections on April 10, 2018, April 3, 2019, and April 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 provide a temperature measuring device required for the immersion into food; and 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 one thousand dollars **(\$1,000.00)**.

200)    Order Type and Number:                      Consent Order 2019-206-01-036  
          Order Date:                                        August 12, 2019  
          Individual/Entity:                                **Cracker Jack's Cafe**  
          Facility:    Cracker Jack's Cafe  
          Location:     1146 Jackson Street  
   Anderson, SC 29625  
          Mailing Address:                                Same  
          County:    Anderson  
          Previous Orders:                                2017-206-01-025 (\$800.00);  
   2018-206-01-036 (\$1,000.00)  
          Permit Number:                                04-206-03985  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Cracker Jack's Cafe (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on August 30, 2017, July 30, 2018, May 21, 2019, and May 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; and failed to clean non-food contact surfaces at a frequency to preclude accumulation of soil residues.

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)**.

201)    Order Type and Number:                      Consent Order 2019-206-02-052  
          Order Date:                                        August 12, 2019  
          Individual/Entity:                                **Nantucket Seafood Grill**  
          Facility:    Nantucket Seafood Grill  
          Location:     40 West Broad Street  
   Greenville, SC 29601  
          Mailing Address:                                Same  
          County:    Greenville  
          Previous Orders:                                None  
          Permit Number:                                23-206-09971  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Nantucket Seafood Grill (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on November 16, 2017, September 10,

2018, and June 10, 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)**.

202)    Order Type and Number:                      Consent Order 2019-206-03-077  
          Order Date:                                        August 12, 2019  
          Individual/Entity:                                **Red Robin**  
          Facility:    Red Robin  
          Location:     100 Columbiana Circle, Suite 1024  
   Columbia, SC 29212  
          Mailing Address:                                6312 Fiddlers Green #200N  
   Greenwood Village, CO 80111  
          County:    Lexington  
          Previous Orders:                                   2018-206-03-104 (\$1,600.00)  
          Permit Number:                                 32-206-06391  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Red Robin (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on June 25, 2019, and July 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 two thousand dollars **(\$2,000.00)**.

203)    Order Type and Number:                      Consent Order 2019-206-06-102  
          Order Date:                                        August 12, 2019  
          Individual/Entity:                                **Thai Season**  
          Facility:    Thai Season  
          Location:     1004 Highway 17 South, Unit A  
   North Myrtle Beach, SC 29582  
          Mailing Address:                                Same  
          County:    Horry  
          Previous Orders:                                   2016-206-06-044 (\$800.00)  
          Permit Number:                                 26-206-10579  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Thai Season (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on November 28, 2018, June 6, 2019, and June 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that all equipment installed in a retail food establishment

shall be certified or classified and listed to National Sanitation Foundation (NSF)/American National Standards Institute (ANSI) Commercial Food Equipment Standards, or Baking Industry Sanitation Standards Committee (BISSC) or other accredited ANSI food equipment sanitation certification recognized 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 five hundred dollars **(\$500.00)**.

204)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-059
	<u>Order Date:</u>	August 12, 2019
	<u>Individual/Entity:</u>	<b>SOL Southwest Express</b>
	<u>Facility:</u>	SOL Southwest Express
	<u>Location:</u>	385 Meeting Street Charleston, SC 29401
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-10746
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: SOL Southwest Express (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on September 14, 2017, July 26, 2018, and May 28, 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)**.

205)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-033
	<u>Order Date:</u>	August 13, 2019
	<u>Individual/Entity:</u>	<b>Tommy's Quick Mart</b>
	<u>Facility:</u>	Tommy's Quick Mart
	<u>Location:</u>	320 South Irby Street Florence, SC 29501
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	21-206-00384
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Tommy's Quick Mart (Individual/Entity) is a convenience store located in Florence, South Carolina. The Department conducted inspections on December 13, 2017, June 22, 2018, and May 8, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat,

time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

206) Order Type and Number: Consent Order 2019-206-05-016  
Order Date: August 13, 2019  
Individual/Entity: **Hardee's #1501722**  
Facility: Hardee's #1501722  
Location: 1109 John C. Calhoun Drive  
Orangeburg, SC 29115  
Mailing Address: 20377 SW Acacia Street, Suite 200  
Newport Beach, CA 92660-1780  
County: Orangeburg  
Previous Orders: None  
Permit Number: 38-206-02598  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hardee's #1501722 (Individual/Entity) is a restaurant located in Orangeburg, South Carolina. The Department conducted inspections on September 24, 2018, July 9, 2019, and July 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)**.

207) Order Type and Number: Consent Order 2019-206-07-075  
Order Date: August 13, 2019  
Individual/Entity: **Tasty Thai and Sushi**  
Facility: Tasty Thai and Sushi  
Location: 350 King Street  
Charleston, SC 29401  
Mailing Address: Same  
County: Charleston  
Previous Orders: 2015-206-07-081 (\$800.00);  
2017-206-07-028 (\$800.00);  
2018-206-07-033 (\$1,000.00)  
Permit Number: 10-206-07255  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tasty Thai and Sushi (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on June 19, 2019, June 28, 2019,

and July 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; 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)**.

208)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-080
	<u>Order Date:</u>	August 13, 2019
	<u>Individual/Entity:</u>	<b>Taco Bell/KFC #2649</b>
	<u>Facility:</u>	Taco Bell/KFC #2649
	<u>Location:</u>	220 Spring Street Charleston, SC 29403
	<u>Mailing Address:</u>	186 Seven Farms Drive #396F Daniel Island, SC 29492
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-05668
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Taco Bell/KFC #2649 (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on December 1, 2017, June 14, 2018, April 8, 2019, June 18, 2019, and June 27, 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 six hundred dollars **(\$600.00)**.

209)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-068
	<u>Order Date:</u>	August 15, 2019
	<u>Individual/Entity:</u>	<b>Vellas Restaurant</b>
	<u>Facility:</u>	Vellas Restaurant
	<u>Location:</u>	829 Knox Abbott Drive Cayce, SC 29033
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	32-206-02761
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Vellas Restaurant (Individual/Entity) is a restaurant located in Cayce, South Carolina. The Department conducted inspections on January 14, 2019, April 23, 2019, and June 13,

2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that physical facilities were maintained 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)**.

210)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-094
	<u>Order Date:</u>	August 16, 2019
	<u>Individual/Entity:</u>	<b>Twisters Soft Serve LLC</b>
	<u>Facility:</u>	Twisters Soft Serve Ice Cream
	<u>Location:</u>	3968 Highway 17 Business Murrells Inlet, SC 29576
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Georgetown
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	22-206-06046
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Twisters Soft Serve Ice Cream (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted a site visit on July 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: obscured, covered, defaced, relocated, or removed the grade decal that was posted 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 five hundred dollars **(\$500.00)**.

211)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-081
	<u>Order Date:</u>	August 16, 2019
	<u>Individual/Entity:</u>	<b>Sonic Drive In #4450</b>
	<u>Facility:</u>	Sonic Drive In #4450
	<u>Location:</u>	931 Folly Road Charleston, SC 29412
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-11489
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Sonic Drive In #4450 (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on August 14, 2018, May 30, 2019, June 4, 2019, June 11, 2019, and June 26, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that outer openings of the retail food establishment were protected against the entry of insects and rodents by filling or closing the holes

and other gaps along floors, walls and ceiling; closed tight-fitting windows; and solid, self-closing doors; failed to ensure that physical facilities were maintained in good repair; and failed to ensure that cleaned equipment and utensils, laundered linens, and single-use articles shall be stored in a clean, dry location; where they are not exposed to splash, dust, or other contamination; and at least 6 inches off 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 one thousand dollars **(\$1,000.00)**.

212)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-070
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Jasmine Buffet</b>
	<u>Facility:</u>	Jasmine Buffet
	<u>Location:</u>	7461 Two Notch Road Columbia, SC 29223
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	40-206-06861
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Jasmine Buffet (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on August 3, 2017, June 25, 2018, and June 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)**.

213)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-083
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Tiger Stop</b>
	<u>Facility:</u>	Tiger Stop
	<u>Location:</u>	495 Church Street Swansea, SC 29160
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	32-206-05332
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Tiger Stop (Individual/Entity) is a convenience store located in Swansea, South Carolina. The Department conducted inspections on June 8, 2018, June 3, 2019, and July 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)**.

214)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-034
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Grits &amp; Groceries #2</b>
	<u>Facility:</u>	Grits & Groceries #2
	<u>Location:</u>	615 East McGregor Street Pageland, SC 29728
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Chesterfield
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	13-206-01497
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Grits & Groceries #2 (Individual/Entity) is a restaurant located in Pageland, South Carolina. The Department conducted inspections on September 27, 2017, August 20, 2018, and May 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure the toilet room(s) located on the premises are completely enclosed and provided with tight-fitting and self-closing door(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 two hundred dollars **(\$200.00)**.

215)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-095
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Panchitos Villa</b>
	<u>Facility:</u>	Panchitos Villa
	<u>Location:</u>	4247 Broad Street Loris, SC 29569
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	2016-206-06-111 (\$800.00); 2017-206-06-064 (\$1,000.00)
	<u>Permit Number:</u>	26-206-12243
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Panchitos Villa (Individual/Entity) is a restaurant located in Loris, South Carolina. The Department conducted inspections on October 25, 2018, January 28, 2019, and June 28, 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)**.

216)    Order Type and Number:                      Consent Order 2019-206-01-051  
          Order Date:                                        August 20, 2019  
          Individual/Entity:                                **Huddle House #111**  
          Facility:    Huddle House #111  
          Location:     5420 Highway 187  
   Anderson, SC 29625  
          Mailing Address:                                4901-B Peachtree Dunwoody NE, Suite 450  
   Atlanta, GA 30328  
          County:     Anderson  
          Previous Orders:                                 None  
          Permit Number:                                04-206-04413  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary:    Huddle House #111 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 1, 2018, February 11, 2019, June 27, 2019, and July 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that outer openings of the retail food establishment were protected against the entry of insects and rodents by filling or closing the holes and other gaps along floors, walls and ceiling; closed tight-fitting windows; and solid, self-closing doors; and failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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)**.

217)    Order Type and Number:                      Consent Order 2019-206-07-091  
          Order Date:                                        August 20, 2019  
          Individual/Entity:                                **Poblanos Mexican Cuisine Inc.**  
          Facility:    Poblanos Mexican Cuisine Inc.  
          Location:     7571 Rivers Avenue  
   North Charleston, SC 29406  
          Mailing Address:                                Same  
          County:     Charleston  
          Previous Orders:                                 None  
          Permit Number:                                10-206-06695  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Poblanos Mexican Cuisine Inc. (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on March 1, 2018, July 17, 2018, July 3, 2019, July 5, 2019, and July 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; failed to properly cool cooked time/temperature control for safety foods; failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked 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 two thousand, four hundred dollars **(\$2,400.00)**.

218) <u>Order Type and Number:</u>	Consent Order 2019-206-06-091
<u>Order Date:</u>	August 21, 2019
<u>Individual/Entity:</u>	<b>Jade Hibachi</b>
<u>Facility:</u>	Jade Hibachi
<u>Location:</u>	201 Graduate Road Conway, SC 29526
<u>Mailing Address:</u>	104 Jessica Lakes Drive Conway, SC 29526
<u>County:</u>	Horry
<u>Previous Orders:</u>	2016-206-06-131 (\$1,200.00); 2018-206-06-125 (\$2,000.00); 2019-206-06-044 (\$1,250.00); 2019-206-06-080 (\$1,250.00)
<u>Permit Number:</u>	26-206-10472
<u>Violations Cited:</u>	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 May 23, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; 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 facility's 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)**.



221)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-054
	<u>Order Date:</u>	August 23, 2019
	<u>Individual/Entity:</u>	<b>Saffron Multicuisine Restaurant</b>
	<u>Facility:</u>	Saffron Multicuisine Restaurant
	<u>Location:</u>	1607 Fairlane Drive West Columbia, SC 29169
	<u>Mailing Address:</u>	937 Bakersfield Road Columbia, SC 29210
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	32-206-06507
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Saffron Multicuisine Restaurant (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on June 6, 2017, June 9, 2018, May 15, 2018, and May 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)**.

222)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-073
	<u>Order Date:</u>	August 23, 2019
	<u>Individual/Entity:</u>	<b>Mellow Mushroom</b>
	<u>Facility:</u>	Mellow Mushroom
	<u>Location:</u>	1009 Gervais Street Columbia, SC 29201
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	40-206-05059
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Mellow Mushroom (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on June 21, 2018, June 12, 2019, and June 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 five hundred fifty dollars **(\$550.00)**.

223)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-035
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Deja Vu</b>
	<u>Facility:</u>	Deja Vu
	<u>Location:</u>	121 North Main Street Anderson, SC 29624
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	04-206-04289
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Deja Vu (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on March 22, 2018, March 30, 2018, March 20, 2019, March 29, 2019, and April 8, 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; failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks; and failed to ensure that physical facilities were maintained 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 eight hundred dollars **(\$800.00)**.

224)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-045
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Subway</b>
	<u>Facility:</u>	Subway
	<u>Location:</u>	3812 Liberty Highway Anderson, SC 29621
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	04-206-04284
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Subway (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 20, 2017, August 22, 2018, June 5, 2019, June 14, 2019, and June 24, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure the plumbing system is repaired according to law; and maintained 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 six hundred dollars **(\$600.00)**.

225)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-048
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>IHOP #4416</b>
	<u>Facility:</u>	IHOP #4416
	<u>Location:</u>	3191 North Main Street Anderson, SC 29621
	<u>Mailing Address:</u>	P. O. Box 504 Concord, NC 28206
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	2016-206-01-009 (\$800.00)
	<u>Permit Number:</u>	04-206-03063
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: IHOP #4416 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on March 19, 2018, February 8, 2019, and July 8, 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 of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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 fifty dollars **(\$250.00)**.

226)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-041
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Ruby Tuesday #4214</b>
	<u>Facility:</u>	Ruby Tuesday #4214
	<u>Location:</u>	900 Tiger Boulevard Clemson, SC 29631
	<u>Mailing Address:</u>	150 West Church Avenue Maryville, TN 37801
	<u>County:</u>	Pickens
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	39-206-01053
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Ruby Tuesday #4214 (Individual/Entity) is a restaurant located in Pickens, South Carolina. The Department conducted inspections on October 3, 2016, September 26, 2017, July 5, 2018, and May 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, six hundred dollars **(\$1,600.00)**.





229)    Order Type and Number:                      Consent Order 2019-206-02-055  
          Order Date:                                        September 3, 2019  
          Individual/Entity:                                **Mac's Drive In**  
          Facility:    Mac's Drive In  
          Location:     404 Pendleton Road  
    Clemson, SC 29631  
  
          Mailing Address:                                Same  
          County:    Pickens  
          Previous Orders:                                None  
          Permit Number:                                39-206-00012  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Mac's Drive In (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 21, 2018, June 4, 2019, and June 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that outer openings of the retail food establishment were protected against the entry of insects and rodents by filling or closing the holes and other gaps along floors, walls and ceiling; closed tight-fitting windows; and solid, self-closing doors; and failed to keep equipment food contact surfaces and utensils clean to sight and touch.

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)**.

230)    Order Type and Number:                      Consent Order 2019-206-02-056  
          Order Date:                                        September 3, 2019  
          Individual/Entity:                                **Carolina Fine Foods**  
          Facility:    Carolina Fine Foods  
          Location:     100 Hawkins Road  
    Travelers Rest, SC 29690  
  
          Mailing Address:                                Same  
          County:    Greenville  
          Previous Orders:                                None  
          Permit Number:                                23-206-03711  
          Violations Cited:                               S.C. Code Ann. Regs. 61-25

Summary: Carolina Fine Foods (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on February 14, 2019, April 1, 2019, April 26, 2019, July 1, 2019, July 11, 2019, and July 12, 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 use effective methods to cool cooked time/temperature control for safety foods; 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 two thousand, five hundred fifty dollars **(\$2,550.00)**.



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)**.

235)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-101
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>8<sup>th</sup> Tiki Bar and Grille</b>
	<u>Facility:</u>	8 <sup>th</sup> Tiki Bar and Grille
	<u>Location:</u>	708 North Ocean Boulevard Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-12192
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: 8<sup>th</sup> Tiki Bar and Grille (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on October 18, 2018, February 6, 2019, and June 24, 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 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 four hundred dollars **(\$400.00)**.

236)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-111
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Hong Kong</b>
	<u>Facility:</u>	Hong Kong
	<u>Location:</u>	520 East Main Street Kingstree, SC 29556
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Williamsburg
	<u>Previous Orders:</u>	2019-206-06-040 (\$1,000.00)
	<u>Permit Number:</u>	45-206-00466
	<u>Violations Cited:</u>	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 February 21, 2019, March 4, 2019, July 10, 2019, and July 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 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 two thousand dollars **(\$2,000.00)**.

237)    Order Type and Number:                      Consent Order 2019-206-07-063  
          Order Date:                                        September 3, 2019  
          Individual/Entity:                                **Waffle House #941**  
          Facility:    Waffle House #941  
          Location:     120 South Goose Creek Boulevard  
   Goose Creek, SC 29445  
  
          Mailing Address:                                P.O. Box 6450  
   Norcross, GA 30091  
  
          County:    Berkeley  
          Previous Orders:                                   None  
          Permit Number:                                08-206-00740  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Waffle House #941 (Individual/Entity) is a restaurant located in Goose Creek, South Carolina. The Department conducted inspections on August 11, 2017, June 20, 2018, and May 29, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that cleaned equipment and utensils, laundered linens, and single-use articles shall be stored in a clean, dry location where they are not exposed to splash, dust, or other contamination and at least 6 inches off 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)**.

238)    Order Type and Number:                      Consent Order 2019-206-07-064  
          Order Date:                                        September 3, 2019  
          Individual/Entity:                                **Nigels Good Food**  
          Facility:    Nigels Good Food  
          Location:     3760 Ashley Phosphate Road  
   North Charleston, SC 29406  
  
          Mailing Address:                                Same  
          County:    Dorchester  
          Previous Orders:                                   2018-206-07-024 (\$800.00)  
          Permit Number:                                18-206-07836  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Nigels Good Food (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on August 7, 2018, May 20, 2019, May 24, 2019, and May 31, 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 four thousand dollars **(\$4,000.00)**.

239)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-072
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Wal-Mart #2348 Deli and Bakery</b>
	<u>Facility:</u>	Wal-Mart #2348 Deli and Bakery
	<u>Location:</u>	1231 Folly Road Charleston, SC 29412
	<u>Mailing Address:</u>	508 SW 8 <sup>th</sup> Street Bentonville, AZ 72716
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-08402
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Wal-Mart #2348 Deli and Bakery (Individual/Entity) operates a deli and bakery located in Charleston, South Carolina. The Department conducted inspections on October 4, 2017, September 25, 2018, June 11, 2019, and June 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; and failed to ensure that physical facilities were maintained 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)**.

240)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-086
	<u>Order Date:</u>	September 3, 2019
	<u>Individual/Entity:</u>	<b>Circle K Store #3871</b>
	<u>Facility:</u>	Circle K Store #3871
	<u>Location:</u>	1571 North Main Street Summerville, SC 29483
	<u>Mailing Address:</u>	P.O. Box 8019 Cary, NC 27512
	<u>County:</u>	Berkeley
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	08-206-09880
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Circle K Store #3871 (Individual/Entity) is a convenience store located in Summerville, South Carolina. The Department conducted inspections on September 26, 2017, July 27, 2018, August 6, 2018, and July 23, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that physical facilities were maintained 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)**.

241)    Order Type and Number:                      Consent Order 2019-206-07-089  
         Order Date:    September 3, 2019  
         Individual/Entity:                                      **Hollings Café**  
         Facility:    Hollings Café  
         Location:    86 Jonathan Lucas Boulevard  
            Charleston, SC 29403  
         Mailing Address:                                      Same  
         County:    Charleston  
         Previous Orders:                                      2015-206-07-101 (\$800.00)  
         Permit Number:                                      10-206-08425  
         Violations Cited:                                      S.C. Code Ann. Regs. 61-25

Summary: Hollings Café (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on August 1, 2017, July 10, 2018, and July 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)**.

242)    Order Type and Number:                      Consent Order 2019-206-07-090  
         Order Date:    September 3, 2019  
         Individual/Entity:                                      **El Jefe Texicana Cantina**  
         Facility:    El Jefe Texicana Cantina  
         Location:    468 King Street  
            Charleston, SC 29401  
         Mailing Address:                                      Same  
         County:    Charleston  
         Previous Orders:                                      None  
         Permit Number:                                      10-206-11288  
         Violations Cited:                                      S.C. Code Ann. Regs. 61-25

Summary: El Jefe Texicana Cantina (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on July 12, 2018, July 19, 2018, and July 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 four hundred dollars **(\$400.00)**.

243)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-040
	<u>Order Date:</u>	September 6, 2019
	<u>Individual/Entity:</u>	<b>Love's Travel Stop #371/Arby's</b>
	<u>Facility:</u>	Love's Travel Stop #371/Arby's
	<u>Location:</u>	1911 Highway 34 West Dillon, SC 29536
	<u>Mailing Address:</u>	P. O. Box 26210 Oklahoma City, OK 73126
	<u>County:</u>	Dillon
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	17-206-00872
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Love's Travel Stop #371/Arby's (Individual/Entity) is a restaurant located in Dillon, South Carolina. The Department conducted inspections on March 25, 2019, June 7, 2019, and June 17, 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)**.

244)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-041
	<u>Order Date:</u>	September 6, 2019
	<u>Individual/Entity:</u>	<b>Lizard's Thicket</b>
	<u>Facility:</u>	Lizard's Thicket
	<u>Location:</u>	1712 West Palmetto Street Florence, SC 29501
	<u>Mailing Address:</u>	1036 Market Street Columbia, SC 29201
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	21-206-02498
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Lizard's Thicket (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on October 24, 2017, August 24, 2018, and June 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 eight hundred dollars **(\$800.00)**.



245)    Order Type and Number:                      Consent Order 2019-206-07-084  
          Order Date:                                      September 6, 2019  
          Individual/Entity:                              **Captain D's #3689**  
          Facility:                                         Captain D's #3689  
          Location:                                        4008 Rivers Avenue  
   North Charleston, SC 29405  
          Mailing Address:                              P.O. Box 780358  
   Wichita, KS 67278  
          County:    Charleston  
          Previous Orders:                                None  
          Permit Number:                                10-206-00903  
          Violations Cited:                              S.C. Code Ann. Regs. 61-25

Summary: Captain D's #3689 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on July 8, 2019, July 18, 2019, July 25, 2019, and August 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.

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)**.

246)    Order Type and Number:                      Consent Order 2019-206-07-092  
          Order Date:                                      September 6, 2019  
          Individual/Entity:                              **Golden Corral #2599**  
          Facility:                                         Golden Corral #2599  
          Location:                                        4968 Centre Point Drive  
   North Charleston, SC 29418  
          Mailing Address:                              1453 Kempsville Road, Suite 107  
   Virginia Beach, VA 23464  
          County:    Charleston  
          Previous Orders:                                2016-206-07-053 (\$950.00);  
   2017-206-07-011 (\$1,200.00);  
   2019-206-07-015 (\$800.00)  
          Permit Number:                                10-206-06888  
          Violations Cited:                              S.C. Code Ann. Regs. 61-25

Summary: Golden Corral #2599 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on February 12, 2018, January 17, 2019, and July 22, 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)**.



249)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-052
	<u>Order Date:</u>	September 10, 2019
	<u>Individual/Entity:</u>	<b>Benedict College Cafeteria</b>
	<u>Facility:</u>	Benedict College Cafeteria
	<u>Location:</u>	1616 Oak Street Columbia, SC 29204
	<u>Mailing Address:</u>	7730 England Street, Suite A Charlotte, NC 28273
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	40-206-07297
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Benedict College Cafeteria (Individual/Entity) is a cafeteria located in Columbia, South Carolina. The Department conducted inspections on January 27, 2017, October 24, 2017, August 30, 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.

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)**.

250)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-089
	<u>Order Date:</u>	September 10, 2019
	<u>Individual/Entity:</u>	<b>Suck Bang Blow</b>
	<u>Facility:</u>	Suck Bang Blow
	<u>Location:</u>	3393 Highway 17 Business Murrells Inlet, SC 29576
	<u>Mailing Address:</u>	921 Sullivan Drive Murrells Inlet, SC 29576
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-12723
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Suck Bang Blow (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted inspections on March 9, 2017, October 19, 2017, August 6, 2018, June 3, 2019, and June 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 and failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of two thousand, four hundred dollars **(\$2,400.00)**.

251)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-061
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Westin Poinsett Hotel</b>
	<u>Facility:</u>	Westin Poinsett Hotel
	<u>Location:</u>	120 South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	2018-206-02-021 (\$800.00)
	<u>Permit Number:</u>	23-206-07200
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Westin Poinsett Hotel (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on July 22, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days or if the package was not properly date marked.

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

252)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-067
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Farmhouse Tacos</b>
	<u>Facility:</u>	Farmhouse Tacos
	<u>Location:</u>	164 South Main Street Travelers Rest, SC 29690
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	23-206-11574
	Violations Cited:	S.C. Code Ann. Reqs. 61-25

Summary: Farmhouse Tacos (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on August 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the grade decal was not obscured, covered, defaced, relocated, or removed.

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 dollars (**\$500.00**).

253)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-072
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Sandwich Depot</b>
	<u>Facility:</u>	Sandwich Depot
	<u>Location:</u>	1211 Taylor Street Columbia, SC 29206
	<u>Mailing Address:</u>	6005 Ashwood Road Columbia, SC 29206
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	40-206-07715
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Sandwich Depot (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 12, 2018, June 21, 2018, June 29, 2018, and June 18, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that physical facilities were maintained 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)**.

254)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-024
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Sammy's Country Kitchen</b>
	<u>Facility:</u>	Sammy's Country Kitchen
	<u>Location:</u>	116 Olanta Highway Effingham, SC 29541
	<u>Mailing Address:</u>	3311 Pamplico Highway Florence, SC 29505
	<u>County:</u>	Florence
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	21-206-02536
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Sammy's Country Kitchen (Individual/Entity) is a restaurant located in Effingham, South Carolina. The Department conducted inspections on December 18, 2017, June 27, 2018, April 9, 2019, and April 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; 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, six hundred dollars **(\$1,600.00)**.

255)    Order Type and Number:                      Consent Order 2019-206-06-093  
          Order Date:                                        September 12, 2019  
          Individual/Entity:                                **Denny's**  
          Facility:    Denny's  
          Location:     730 Highway 17 South  
   North Myrtle Beach, SC 29582  
          Mailing Address:                                2160 Scenic Highway North  
   Snellville, GA 30078  
          County:     Horry  
          Previous Orders:                                 2019-206-06-058 (\$800.00)  
          Permit Number:                                26-206-13733  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Denny's (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on March 25, 2019, May 23, 2019, June 3, 2019, June 13, 2019, and June 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 and failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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 three thousand, two hundred fifty dollars **(\$3,250.00)**.

256)    Order Type and Number:                      Consent Order 2019-206-06-105  
          Order Date:                                        September 12, 2019  
          Individual/Entity:                                **Asian Bistro & Sushi Bar**  
          Facility:    Asian Bistro & Sushi Bar  
          Location:     4620 Dickpond Road, Unit J  
   Myrtle Beach, SC 29588  
          Mailing Address:                                Same  
          County:     Horry  
          Previous Orders:                                 None  
          Permit Number:                                26-206-13855  
          Violations Cited:                                S.C. Code Ann. Regs. 61-25

Summary: Asian Bistro & Sushi Bar (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on February 26, 2019, March 7, 2019, and July 10, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days or if the package was not properly date marked.

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



259)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-067
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Denny's</b>
	<u>Facility:</u>	Denny's
	<u>Location:</u>	2280 Ashley Phosphate Road North Charleston, SC 29406
	<u>Mailing Address:</u>	2160 Scenic Highway North Snellville, GA 30078
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-11396
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Denny's (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on January 3, 2019, May 2, 2019, and May 31, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces of cooking equipment and pans free of encrusted grease deposits and other soil accumulations and non-food contact surfaces 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)**.

260)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-085
	<u>Order Date:</u>	September 12, 2019
	<u>Individual/Entity:</u>	<b>Nick's Gyros &amp; Philly's #2</b>
	<u>Facility:</u>	Nick's Gyros & Philly's #2
	<u>Location:</u>	6150 Rivers Avenue
		North Charleston, SC 29406
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	2018-206-07-006 (\$1,000.00)
	<u>Permit Number:</u>	10-206-09454
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Nick's Gyros & Philly's #2 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on April 15, 2019, April 16, 2019, May 22, 2019, May 23, 2019, and July 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; failed to properly cool cooked time/temperature control for safety foods; failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; 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 use effective methods to cool cooked time/temperature control for



safety foods; failed to use effective methods to cook raw animal foods when using a non-continuous cooking process; and failed to follow written procedures for preparing and storing raw animal foods when using a non-continuous cooking process.

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)**.

261)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-058
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Coffee Underground</b>
	<u>Facility:</u>	Coffee Underground
	<u>Location:</u>	1 East Coffee Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	2018-206-02-008 (\$1,600.00); 2018-206-02-068 (\$1,000.00)
	<u>Permit Number:</u>	23-206-06058
	<u>Violations Cited:</u>	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 July 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.

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)**.

262)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-060
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Chicora Alley</b>
	<u>Facility:</u>	Chicora Alley
	<u>Location:</u>	608-B South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	23-206-07836
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Chicora Alley (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on December 14, 2018, December 21, 2018, July 24, 2019, and July 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)**.

263)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-066
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Orient on Main/Sushi Murasaki</b>
	<u>Facility:</u>	Orient on Main/Sushi Murasaki
	<u>Location:</u>	1 East Coffee Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	2016-206-02-043 (\$550.00); 2018-206-02-012 (\$1,000.00)
	<u>Permit Number:</u>	23-206-07839
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Orient on Main/Sushi Murasaki (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on February 13, 2018, November 27, 2018, and July 30, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

264)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-097
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Speedway #4564</b>
	<u>Facility:</u>	Speedway #4564
	<u>Location:</u>	401 Church Street Georgetown, SC 29440
	<u>Mailing Address:</u>	P.O. Box 1580 Springfield, OH 45501
	<u>County:</u>	Georgetown
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	22-206-06149
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Speedway #4564 (Individual/Entity) is a convenience store located in Georgetown, South Carolina. The Department conducted inspections on June 20, 2019, June 28,

2019, and July 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.

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)**.

265)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-098
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Chipotle Mexican Grill</b>
	<u>Facility:</u>	Chipotle Mexican Grill
	<u>Location:</u>	1000 South Commons Drive, Suite 101 Myrtle Beach, SC 29588
	<u>Mailing Address:</u>	1401 Wynkoop Street, Suite 500 Denver, CO 80202
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	2018-206-06-046 (\$1,000.00)
	<u>Permit Number:</u>	26-206-13235
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Chipotle Mexican Grill (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on April 25, 2019, June 24, 2019, and July 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure floors, floor coverings, walls, wall coverings, and ceilings were designed, constructed, and installed so they are smooth and easily cleanable.

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)**.

266)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-109
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Pop Pop's Pit BBQ</b>
	<u>Facility:</u>	Pop Pop's Pit BBQ
	<u>Location:</u>	8724 Highway 707 Myrtle Beach, SC 29588
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	2017-206-06-021 (\$800.00); 2019-206-06-016 (\$400.00)
	<u>Permit Number:</u>	26-206-13851
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Pop Pop's Pit BBQ (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on July 3, 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; 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 five hundred dollars **(\$500.00)**.

267)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-114
	<u>Order Date:</u>	September 16, 2019
	<u>Individual/Entity:</u>	<b>Newtown's General Store</b>
	<u>Facility:</u>	Newtown's General Store
	<u>Location:</u>	410 East Brooks Road Andrews, SC 29510
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Georgetown
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	22-206-06377
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Newtown's General Store (Individual/Entity) is a convenience store located in Andrews, South Carolina. The Department conducted inspections on April 24, 2018, November 19, 2018, June 28, 2019, July 8, 2019, and July 17, 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 refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked; 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 all equipment installed in a retail food establishment after the effective date of this regulation shall be certified or classified and listed to National Sanitation Foundation (NSF)/American National Standards Institute (ANSI) Commercial Food Equipment Standards, Baking Industry Sanitation Standards Committee (BISSC), or other accredited ANSI food equipment sanitation certification recognized 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, seven hundred fifty dollars **(\$1,750.00)**.

268)	<u>Order Type and Number:</u>	Consent Order 2019-206-04-042
	<u>Order Date:</u>	September 17, 2019
	<u>Individual/Entity:</u>	<b>Jack's Pizza and Hot Subs</b>
	<u>Facility:</u>	Jack's Pizza and Hot Subs
	<u>Location:</u>	208 East Gibson Avenue

Mailing Address: McColl, SC 29570  
204 Sesame Street  
McColl, SC 29570  
County: Marlboro  
Previous Orders: None  
Permit Number: 34-206-00673  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jack's Pizza and Hot Subs (Individual/Entity) is a restaurant located in McColl, South Carolina. The Department conducted inspections on October 26, 2018, May 20, 2019, May 30, 2019, and June 6, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that outer openings of the retail food establishment were protected against the entry of insects and rodents by filling or closing the holes and other gaps along floors, walls and ceiling; closed tight-fitting windows; and solid, self-closing doors.

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)**.

269) Order Type and Number: Consent Order 2019-206-06-108  
Order Date: September 18, 2019  
Individual/Entity: **Steak and Shake**  
Facility: Steak and Shake  
Location: 10835 Kings Road  
Myrtle Beach, SC 29572  
Mailing Address: Same  
County: Horry  
Previous Orders: None  
Permit Number: 26-206-12122  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Steak and Shake (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 27, 2018, July 18, 2018, January 31, 2019, February 8, 2019, and June 18, 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 six hundred dollars **(\$600.00)**.

270) Order Type and Number: Consent Order 2019-206-07-045  
Order Date: September 18, 2019  
Individual/Entity: **China Chef at Goose Creek, Inc.**  
Facility: China Chef at Goose Creek, Inc.  
Location: 142-J St. James Avenue

	Goose Creek, SC 29445
<u>Mailing Address:</u>	Same
<u>County:</u>	Berkeley
<u>Previous Orders:</u>	2016-206-07-030 (\$800.00)
<u>Permit Number:</u>	08-206-09687
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: China Chef at Goose Creek, Inc. (Individual/Entity) is a restaurant in Goose Creek, South Carolina. The Department conducted inspections on August 9, 2017, June 26, 2018, April 9, 2019, and April 18, 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 five hundred dollars **(\$500.00)**.

271)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-079
	<u>Order Date:</u>	September 18, 2019
	<u>Individual/Entity:</u>	<b>Bojangles</b>
	<u>Facility:</u>	Bojangles
	<u>Location:</u>	121 Main Street James Island, SC 29455
	<u>Mailing Address:</u>	101 West Main Street, Suite 200 Lexington, SC 29072
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	10-206-11392
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Bojangles (Individual/Entity) is a restaurant located in James Island, South Carolina. The Department conducted inspections on July 20, 2018, May 22, 2019, June 3, 2019, June 12, 2019, and June 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; and failed to ensure that outer openings of the retail food establishment were protected against the entry of insects and rodents by filling or closing the holes and other gaps along floors, walls and ceiling; closed tight-fitting windows; and solid, self-closing doors.

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)**.

272)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-053
	<u>Order Date:</u>	September 19, 2019
	<u>Individual/Entity:</u>	<b>On the Roxx</b>
	<u>Facility:</u>	On the Roxx
	<u>Location:</u>	734-A South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	23-206-09886
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: On the Roxx (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on December 13, 2017, October 4, 2018, and June 19, 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)**.

273)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-084
	<u>Order Date:</u>	September 19, 2019
	<u>Individual/Entity:</u>	<b>San Jose</b>
	<u>Facility:</u>	San Jose
	<u>Location:</u>	1475 Old Orangeburg Road Lexington, SC 29072
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	2018-206-03-024 (\$1,600.00)
	<u>Permit Number:</u>	32-206-05903
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: San Jose (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on January 16, 2019, July 2, 2019, and July 9, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days, or if the package was not properly date marked.

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

274) Order Type and Number: Consent Order 2019-206-03-089  
Order Date: September 19, 2019  
Individual/Entity: **Fresh Market Deli**  
Facility: Fresh Market Deli  
Location: 10286 Two Notch Road  
Columbia, SC 29229  
Mailing Address: P. O. Box 10368  
Greensboro, NC 27404  
County: Richland  
Previous Orders: None  
Permit Number: 40-206-07982  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Fresh Market Deli (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on July 30, 2018, July 29, 2019, and August 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 eight hundred dollars **(\$800.00)**.

### **Onsite Wastewater Enforcement**

275) Order Type and Number: Administrative Order 19-30-OSWW  
Order Date: August 13, 2019  
Individual/Entity: **Lionel J. Laplante**  
Facility: Lionel J. Laplante  
Location: 5044 Antioch Road  
Conway, SC 29527  
Mailing Address: Same  
County: Horry  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Lionel J. Laplante (Individual/Entity) owns property located in Conway, South Carolina. The Department conducted an investigation on May 13, 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 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; 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.

276)	<u>Order Type and Number:</u>	Administrative Order 19-36-OSWW
	<u>Order Date:</u>	August 13, 2019
	<u>Individual/Entity:</u>	<b>FirstBank</b>
	<u>Facility:</u>	FirstBank
	<u>Location:</u>	203 Battleground Road Chesnee, SC 29323
	<u>Mailing Address:</u>	425 Phillips Boulevard Ewing, NJ 08618
	<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: FirstBank (Individual/Entity) owns property located in Chesnee, South Carolina. The Department conducted an investigation on June 27, 2019, and observed domestic wastewater discharging onto the surface of the ground and running off the 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; 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.

277)	<u>Order Type and Number:</u>	Administrative Order 19-37-OSWW
	<u>Order Date:</u>	August 13, 2019
	<u>Individual/Entity:</u>	<b>Peter and Denise Harding</b>
	<u>Facility:</u>	Peter and Denise Harding
	<u>Location:</u>	401 Pin Du Lac Drive Central, SC 29630
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Pickens
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Peter and Denise Harding (Individuals/Entities) own property located in Central, South Carolina. The Department conducted an investigation on June 28, 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 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; 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.

278)	<u>Order Type and Number:</u>	Administrative Order 19-26-OSWW
	<u>Order Date:</u>	August 19, 2019
	<u>Individual/Entity:</u>	<b>Allen Jordan</b>
	<u>Facility:</u>	Allen Jordan
	<u>Location:</u>	5470 Hendricks Shortcut Road Conway, SC 29527
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Allen Jordan (Individual/Entity) owns property located in Conway, South Carolina. The Department conducted an investigation on May 13, 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 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; 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.

279)	<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 19-42-OSWW September 10, 2019 <b>Daljit S. Roopra</b> <b>Kirandeep D. Roopra</b> Daljit S. Roopra Kirandeep D. Roopra 648 Breckenwood Drive Spartanburg, SC 29301 Same Spartanburg None None S.C. Code Ann. Regs. 61-56
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Summary: Daljit S. Roopra and Kirandeep D. Roopra (Individual/Entity) own property located in Spartanburg, South Carolina. The Department conducted an investigation on June 25, 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 five (5) days to effectively stop the discharging of septic tank effluent, 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 pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

280)	<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>	Consent Order 19-34-OSWW August 21, 2019 <b>Lucia Carmona</b> <b>Norberto Carmona</b> Lucia Carmona Norberto Carmona 180 Lamira Avenue Greer, SC 29651 Same Spartanburg None None S.C. Code Ann. Regs. 61-56
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Summary: Lucia and Norberto Carmona (Individual/Entity) own property located in Greer, South Carolina. The Department conducted an investigation on March 6, 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 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; 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.

281) <u>Order Type and Number:</u>	Consent Order 19-43-OSWW
<u>Order Date:</u>	September 25, 2019
<u>Individual/Entity:</u>	<b>David Davies</b> <b>Jennifer Davies</b>
<u>Facility:</u>	David Davies Jennifer Davies
<u>Location:</u>	113 White Oak Avenue Greenwood, SC 29646
<u>Mailing Address:</u>	Same
<u>County:</u>	Greenwood
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: David Davies and Jennifer Davies (Individual/Entity) own property located in Greenwood, South Carolina. The Department conducted an investigation on April 11, 2019 and observed an unapproved method for disposing of wastewater. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that a dwelling that is occupied for more than two (2) hours a day has an approved means of domestic wastewater disposal.

Action: The Individual/Entity is required to within thirty (30) days, install an approvable OSWW system in accordance with the May 15, 2019, Permit to Construct; or vacate the residence within thirty (30) days until an approved OSWW system is installed; 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**

**October 23, 2019**

(X ) ACTION/DECISION

( ) INFORMATION

**I. TITLE:** Proposed Initial Groundwater Management Plan for the Western Capacity Use Area: S.C. Code of Laws, Title 49, Chapter 5, *Groundwater Use and Reporting Act*

Legislative Review is not required.

**II. SUBJECT:** Request for Plan Approval

**III. FACTS:**

1. Pursuant to S.C. Code Section 49-5-60(B), the Department of Health and Environmental Control (Department) is directed to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20.

2. 49-5-60 (B) states: "After notice and public hearing, the department shall coordinate the affected governing bodies and groundwater withdrawers to develop a groundwater management plan to achieve the goals and objectives stated in Section 49-5-20. In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan. The plan must be approved by the board before the department may issue groundwater withdrawal permits for the area."

3. The Department is proposing an initial groundwater management plan for the Western Capacity Use Area (WCUA) to the Board for approval. The Department has coordinated with local stakeholders to develop this plan and begin the process of establishing goals and processes to ensure sustainable growth of our groundwater resources. This is achieved by the establishment of six strategies outlined in the plan that support growth while conserving and protecting this valuable water resource. It should be noted the initial plan is based on current department procedures for evaluating permit applications and establishing conservation measures. As the Capacity Use Areas are evaluated every five years, the most current information can be incorporated and the plan refined over time through an adaptive management approach.

Therefore, to comply with this provision, the following actions were taken to invite stakeholder participation:

- A Notice of General Public Interest was published in the State Register on September 27, 2019

Western Management Plan Schedule

- January 7, 2019 – Clemson Extension meeting
- January 15, 2019 – Clemson Extension meeting w/ Farmers (Blackville)
- February 5, 2019 – Clemson Extension meeting w/ Farmers (Aiken)
- February 5, 2019 – Clemson Extension meeting w/ Farmers (Lexington)
- February 12, 2019 – DHEC Public Hearing
- March 21, 2019 – WCUA Stakeholder Workgroup (Columbia)
- April 18, 2019 – WCUA Stakeholder Workgroup (Blackville)

- May 16, 2019 – WCUA Stakeholder Workgroup (Blackville)
- June 20, 2019 – WCUA Stakeholder Workgroup (Blackville)
- July 18, 2019 – WCUA Stakeholder Workgroup (Blackville)
- August 14, 2019 – DHEC Open House (Blackville)

- The Comment period for the plan ended October 27, 2019

A copy of the Notice of General Public Interest is submitted as Attachment B.

4. Department staff requests the Board to grant approval of the proposed Initial Groundwater Management Plan for the Western Capacity Use Area.

#### **IV. ANALYSIS:**

The proposed Initial Groundwater Management Plan establishes a management strategy for groundwater resources in the Western (Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties) Capacity Use Area. All new permit requests, permit renewals and requests for permit modifications are on hold until groundwater management plans for each of the Capacity Use Areas can be finalized. Economic development and growth will be impacted if management plans are not put in place to allow the Department to issue new permits, permit renewals, and modifications to existing permits.

The initial plan relies on currently available data from the Department, the U.S. Geological Survey (USGS) and the South Carolina Department of Natural Resources (SCDNR). The data (actual groundwater use and actual groundwater levels) provide a basis for a scientific analysis of proposed groundwater withdrawals. However, as more tools become available, such as the updated Groundwater Availability Model for the South Carolina Coastal Plain from the USGS and SCDNR, the groundwater management plan will be updated to incorporate these tools. The groundwater management plan includes a process for updates to the plan on a 5 year cycle to coincide with permit renewals for the Western Capacity Use Area. Stakeholder participation is part of this process.

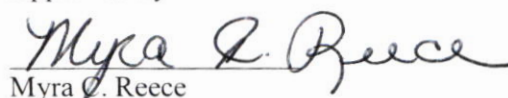
#### **V. RECOMMENDATION:**

Department staff recommends that the Board grant approval of the proposed Western Capacity Use Area Groundwater Management Plans.

Submitted By:

Approved By

  
Dr. Mike Marcus

  
Myra L. Reece

Bureau Chief, Bureau of Water  
Environmental Affairs

Director of Environmental Affairs

Attachments:

- Proposed Western Capacity Use Area Initial Groundwater Management Plan
- State Register Notice of General Public Interest, September 27, 2019
- Western Capacity Use Area Stakeholder Workgroup Summary
- PowerPoint Presentation – WCUA GMP Summary

**ATTACHMENT A**

**PROPOSED WESTERN CAPACITY USE AREA INITIAL  
GROUNDWATER MANAGEMENT PLAN**



# **Initial Groundwater Management Plan for the Western Capacity Use Area**

**Prepared by:** Lance Foxworth, *Hydrogeologist*  
Andrea L. H. Hughes, PhD, *Hydrogeologist*

**Bureau of Water**

Dr. James Michael Marcus, *Chief*

**Water Monitoring, Assessment, and Protection Division**

Robert Devlin, *Director*

**Water Quantity Permitting Section**

Alexander Butler, *Manager*

Technical Report Number: XXXX-XX

November 2019



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## Executive Summary

South Carolina's Groundwater Use and Reporting Act (Chapter 5, Section 49-5-60) gives the South Carolina Department of Health and Environmental Control (SC DHEC) the legal authority and mandate to establish and implement a local groundwater management program in the designated Western Capacity Use Area (WCUA).

Per the enabling legislation (Chapter 5, Section 49-5-20), "The General Assembly declares (Chapter 5, Section 49-5-20) that the general welfare and public interest require that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to:

- Conserve and protect these resources,
- Prevent waste, and to
- Provide and maintain conditions which are conducive to the development and use of water resources."

Since hydrogeologic conditions and the relative socioeconomic requirements of the State vary by area and region, groundwater management should be locally and/or regionally assessed, balancing all needs and interests (more information on the WCUA specifics and defining characteristics can be found in the Hydrogeologic Setting and Regional Description sections). In this regard, SC DHEC coordinates with local stakeholders to achieve the stated goals of the plan leading to sustainable use of the groundwater resources. Sustainable use is the key guiding principle, whereby South Carolina's groundwater resources are managed so that development meets present needs without compromising the ability of future generations to meet their needs.

## Introduction

On November 8, 2018, the South Carolina Department of Health and Environmental Control Board, as established in Section 49-5-60, Capacity Use Designation, declared the whole of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg counties as the **Western Capacity Use Area** (Figure 1). The WCUA is the fifth of five currently declared Capacity Use Areas in South Carolina. Within the WCUA, no person shall withdraw, obtain, or otherwise utilize groundwater at or in excess of three (3) million gallons in any month for any purpose without first obtaining a Groundwater Withdrawal Permit from SC DHEC.

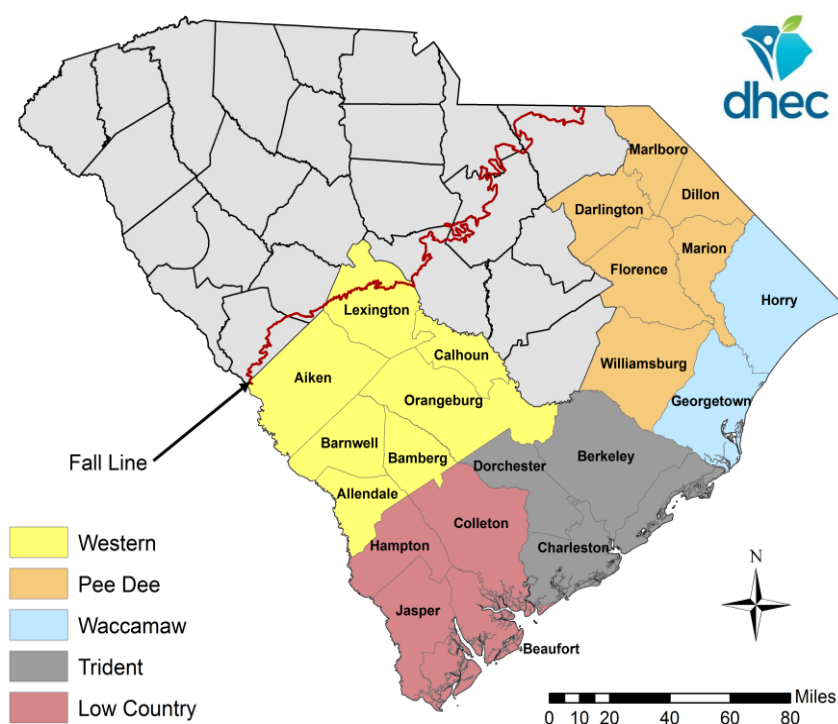


Figure 1: Capacity Use Areas and Associated Counties

The WCUA Groundwater Management Plan (GMP) will guide the initial groundwater management strategy and provide direction for future groundwater management goals by evaluating, as data become available, the hydrologic, environmental, social, and economic impacts of groundwater withdrawals on long-term sustainable levels for WCUA aquifers. Sustainable use meets present needs without compromising the ability of future generations to meet their needs and requirements. Therefore, in addition to the three statutory components of the Capacity Use program set forth in Chapter 5, Section 49-5-20, the three general goals of the GMP are:

1. Ensure sustainable use of the groundwater resource by management of groundwater withdrawals;
2. Monitor groundwater conditions to evaluate availability; and
3. Promote educational awareness of the resource and its conservation.

To accomplish these goals, the GMP addresses the following aspects of water use in the Western region:

- Current groundwater sources utilized;
- Current water demand by type and amount used;
- Current aquifer storage and recovery and water reuse;
- Projected population and growth;
- Projected water demand;
- Projected opportunities for aquifer storage and recovery, as well as water reuse;
- Projected groundwater and surface water options; and,
- Water conservation measures.

Planning is a multi-stage process that includes provisions for updating/amending as conditions change over time. The first plan establishes general goals. As more data are developed about the groundwater resources of the WCUA, more specific goals and withdrawal limits may be incorporated into the GMP. Modifications or updates to the goals and content of the GMP based on the quinquennial GMP Reports shall be made by SC DHEC authority or considered upon request by the WCUA Stakeholder Workgroup.

Groundwater management is locally and regionally conducted to best fit an area's need and incorporates the acknowledgement of regional differences that necessitate varying strategies. Quantitative thresholds that activate a specific management action cannot be explicitly stated and established in any GMP to then be equally applied to all users across all counties in a CUA due to large variations in hydrogeologic setting and groundwater conditions. Instead, the GMP utilizes several management strategies in conjunction to abate potential adverse effects, determine when certain management actions are necessary, and to adhere to the statutory framework as laid out in Chapter 5, Section 49-5-20.

## Definitions

**Adverse Effects:** undesirable consequences of withdrawing groundwater that may include: changes in water quality, significant reduction in water level of the aquifer, saltwater intrusion, land subsidence, and decreases in stream flow

**Aquifer Storage and Recovery (ASR):** a process by which water is injected into an aquifer for storage and then subsequently withdrawn from the same aquifer from the same well or other nearby wells

**Best Management Plan:** a document that supports the design, installation, maintenance, and management of water conveyance systems and/or water withdrawal systems (water supply, commercial, industrial, agricultural, etc.), which promotes water conservation, and protects water quality

**Farmland Acreage (USDA Definition):** consists primarily of agricultural land used for crops, pasture, or grazing; including woodland and wasteland not actually under cultivation or used for pasture or grazing, provided it was part of the farm producer's total operation

**Groundwater User:** a person using groundwater for any purpose

**Groundwater Withdrawer:** any person withdrawing groundwater at or in excess of three (3) million gallons during any one month from a single well or multiple wells within a one-mile radius of any existing or proposed well

**Irrigated Acreage (USDA Definition):** all land watered by any artificial or controlled means, such as sprinklers, flooding, furrows or ditches, subirrigation, and spreader dikes including supplemental, partial, and preplant irrigation

**Person:** an individual, firm, partnership, association, public or private institution, municipality or political subdivision, local, state, or federal government agency, department, or instrumentality, public water system, or a private or public corporation organized under the laws of this State or any other state or county

**Physiographic Province:** a region having a particular pattern of relief features or land forms that differs significantly from that of adjacent regions

**Reasonable Use:** the use of a specific amount of water without waste that is appropriate under efficient practices to accomplish the purpose for which the appropriation is lawfully made

**Stakeholder Workgroup:** the SC DHEC designated committee, diverse in geographic and type-use representation, maintained as an advisory and collaborative partner concerning groundwater permitting, planning, education, and evaluation of the WCUA

**Sustainable Use:** use of ground water in a manner that can be maintained for an indefinite time without causing adverse environmental, economic, or social consequences

**Water Quality:** chemical, physical, biological, and radiological characteristics of the water and measure of the condition of water relative to the intended use

**Water Reuse:** water that is recycled and used more than once and is treated to a standard that permits the intended beneficial reuse

## Reasonable Use Determination by Water Use Type

SC DHEC establishes reasonable use of groundwater and develops limits depending on several factors, including, but not limited to the purpose(s) for which the water is withdrawn, application of type-based formulae, technical reviews of hydrogeologic conditions, groundwater use trends, demands on the resource, and availability of alternative sources of water. Each water use type has its own guidelines and standardized procedures in reasonable use determination (Table 1).

Table 1: Generalized Water Quantity Permitting Section Reasonable Use Guidelines by Water Use Type

Water Use Type	General Reasonable Use Guidelines
<b>Aquaculture (AQ)</b>	<ul style="list-style-type: none"> <li>• Size of operation (acreage)</li> <li>• Depth of holding ponds, lagoons, or lakes</li> <li>• Refill rates</li> </ul>
<b>Golf Course (GC)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Application rates</li> <li>• Acreage irrigated</li> <li>• Duration of irrigation</li> </ul>
<b>Industry (IN)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Variable based on size and type of industry</li> </ul>
<b>Irrigation (IR)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Crop type</li> <li>• Irrigation method</li> <li>• Acreage irrigated</li> <li>• Duration of irrigation</li> <li>• Stress period buffering</li> </ul>
<b>Mining (MI)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Variable based on size and type of industry</li> </ul>
<b>Hydro Power (PH)</b>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<b>Thermo Power (PT)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Availability of alternative water sources</li> </ul>
<b>Nuclear Power (PN)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> </ul>
<b>Water Supply (WS)</b>	<ul style="list-style-type: none"> <li>• Based on current systematic and industry based standards</li> <li>• Population served</li> <li>• Per capita use</li> </ul>
<b>Other (OT)</b>	<ul style="list-style-type: none"> <li>• Variable based on size and type of operation</li> <li>• Department approved Corrective Action Plans</li> </ul>

## Geo-Political Structure

The State of South Carolina is divided into ten official planning districts under the South Carolina Association of Regional Councils (SCARC). Each district is referred to as a Council of Governments (COG). The purpose of the COGs is to provide a “uniform geographical framework within which the planning, programming, and delivery of services by state, federal, and local government might be undertaken with maximum efficiency and effectiveness.” Two separate COGs operate within the WCUA counties: Lower Savannah Council of Governments (LSCOG) and Central Midlands Council of Governments (CMCOG).

LSCOG governs six of the seven counties in the WCUA: Aiken, Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg. LSCOG is currently governed by a 39-member board appointed by the participating county governments. LSCOG has 44 incorporated municipalities serving a total population of 315,087.

CMCOG governs four counties: Fairfield, Lexington, Newberry and Richland. Lexington county is represented by 18 of the 53-member board appointed by the participating county governments to serve on the COG. CMCOG has 29 incorporated municipalities, 14 of which are in Lexington, serving a total population of 763,329. Lexington county has 290,642 people, and in addition to the population of LSCOG, brings the total WCUA population to 605,729 (Figure 2).

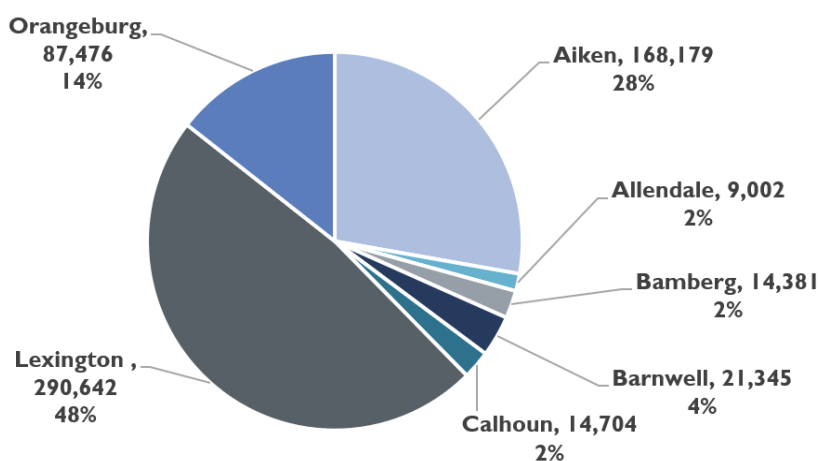


Figure 2: Population by County (U.S. Census Bureau, 2017)

Aiken, Bamberg, Lexington, and Orangeburg counties are governed by a Council-Administrator form of government. Allendale, Barnwell, and Calhoun counties are governed by a Council form of government. Cities, towns, and municipalities in the WCUA implement various forms of government, including Mayor/Council, Council/Manager, or Council only.

SC DHEC has permit authority for all groundwater withdrawals in the WCUA. Permits are issued after appropriate review in accordance with The Groundwater Use and Reporting Act, the Groundwater Use and Reporting Regulation, R.61-113, and the goals and management strategies developed in the GMP.



## Hydrogeologic Setting

The Coastal Plain of South Carolina is part of the larger Atlantic Coastal Plain hydrogeologic system containing water-bearing, permeable sand or carbonate rock aquifers alternating with low-permeability confining units, usually consisting of clay or silt.

## Aquifer Characteristics

The aquifers beneath the WCUA are composed of sediments deposited during the late Cretaceous to Tertiary periods. From oldest to youngest, the Cretaceous units are the Gramling, Charleston, McQueen Branch, and Crouch Branch aquifers; and the Tertiary units are the Gordon, Middle Floridan, Upper Floridan, and Surficial aquifers (Figure 3). In the WCUA, the confining units gradually thin and taper out to the northwest (geologically speaking, “up-dip”), causing the Surficial and Floridan aquifers to connect and form the Upper Three Runs aquifer, which then coalesces further “up-dip” with the Gordon aquifer to form the Steed Pond aquifer (Figure 3). As a result, the aquifers closest to the Fall Line are shallower, more interconnected, and show a greater degree of surface water interaction than those in the southeastern extent of the WCUA, where aquifers are more discrete and separated by confining units.

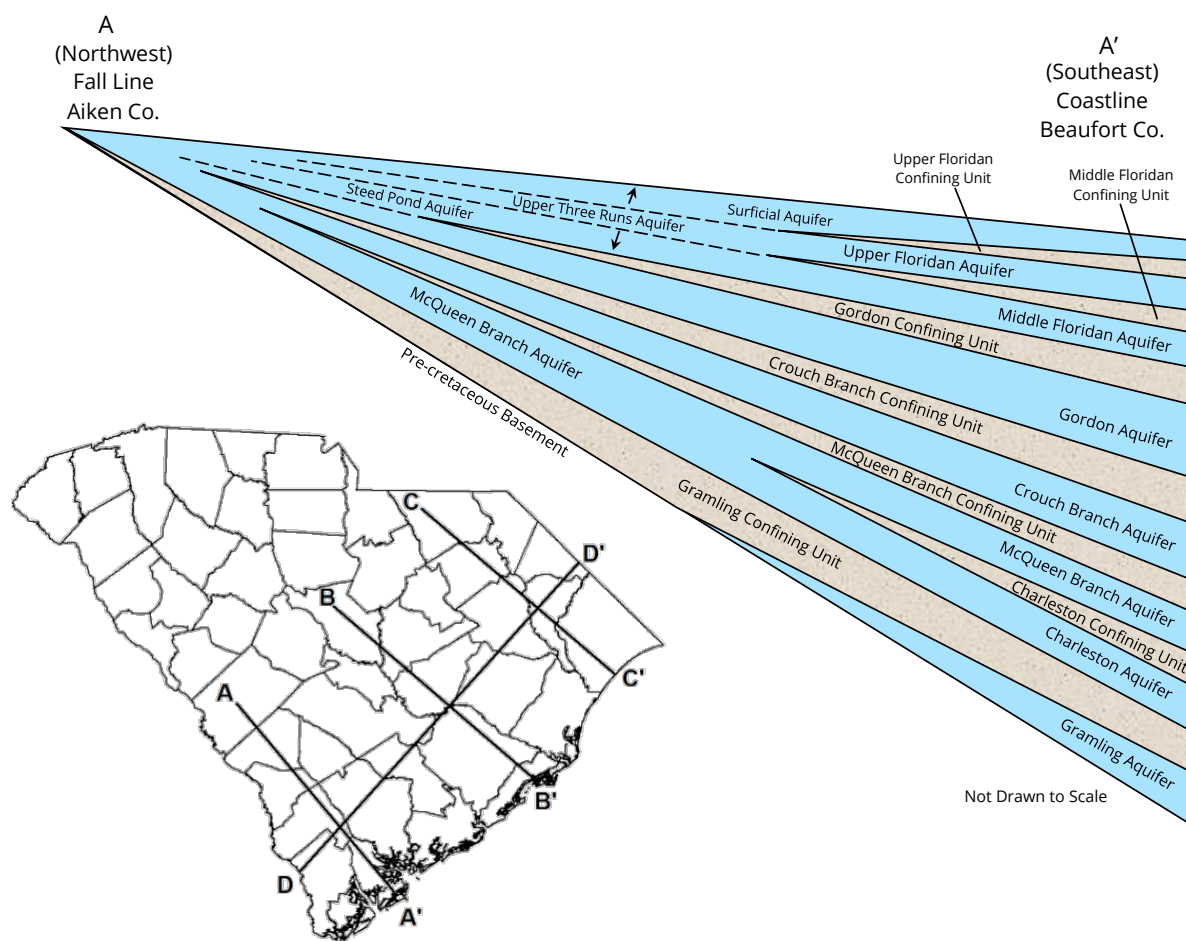
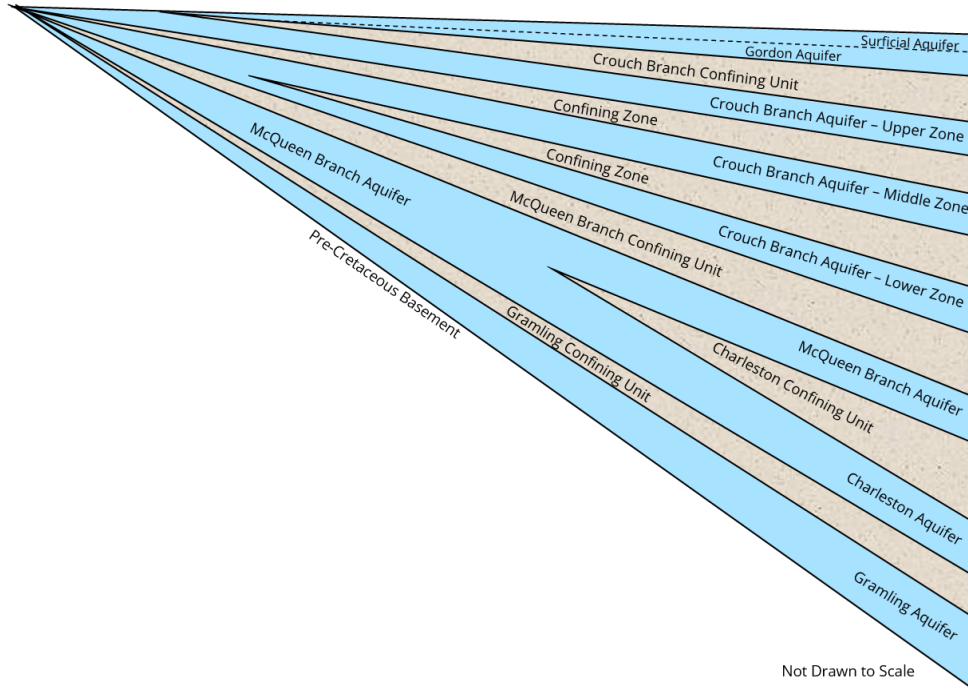


Figure 3: Generalized Cross Sections of South Carolina's Hydrogeologic Framework (Blue = Aquifers; Tan = Confining Units) (Not Drawn to Scale)

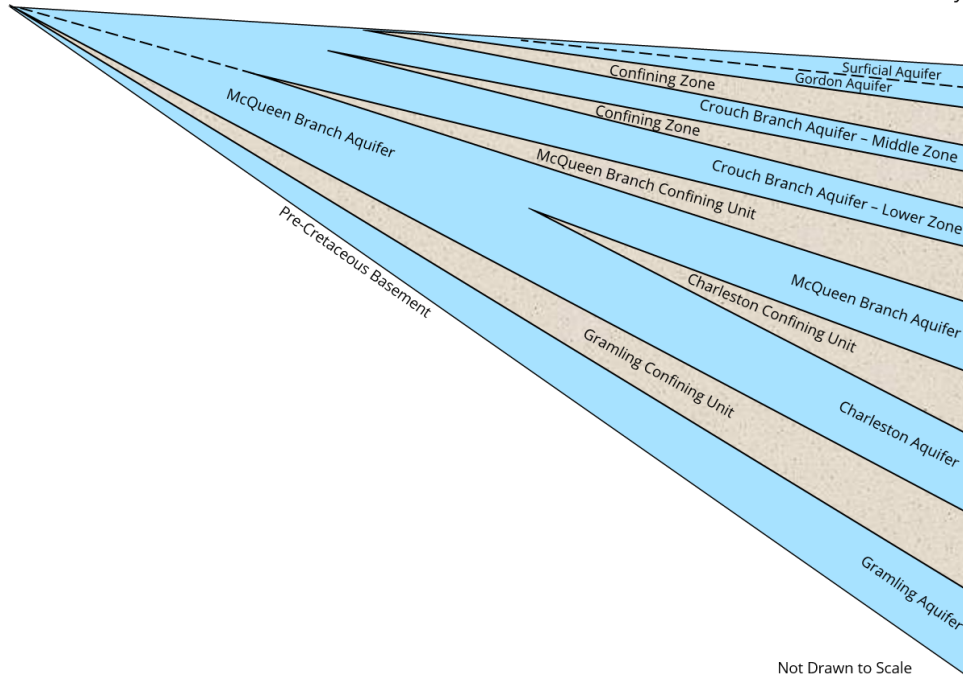
B  
(Northwest)  
Fall Line  
Richland Co.

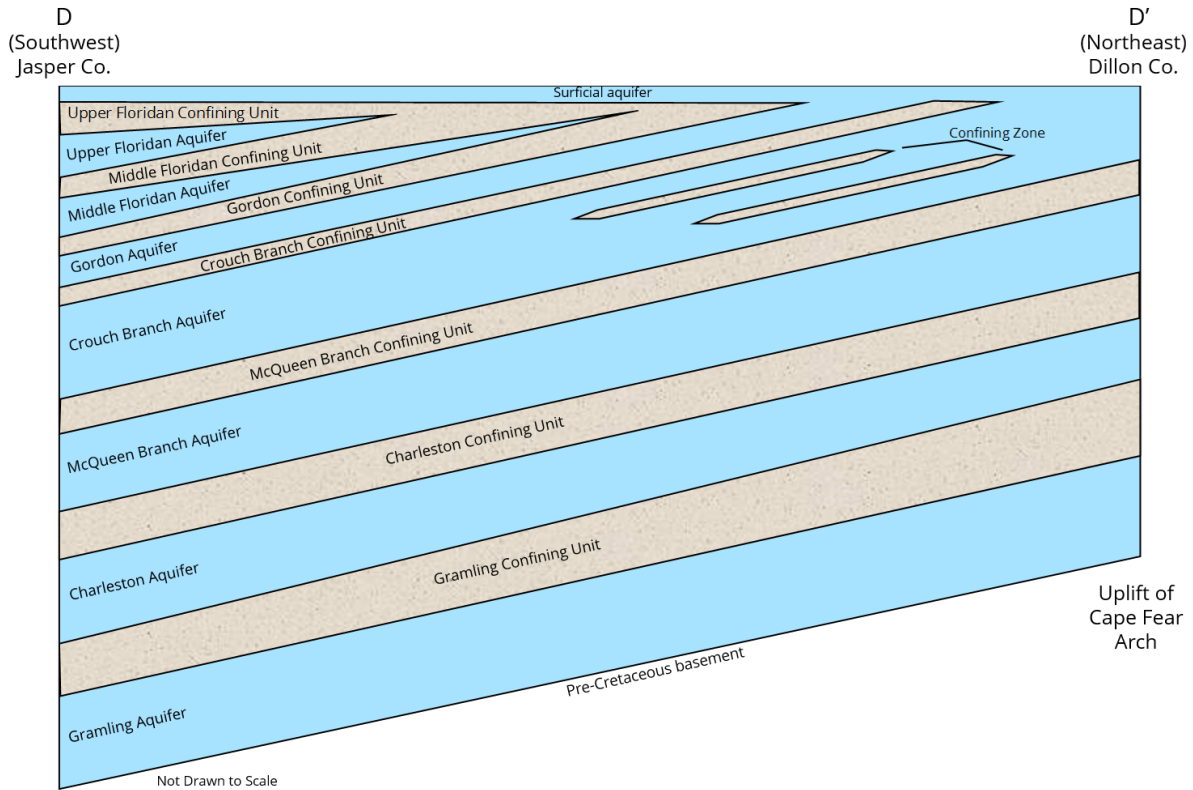
B'  
(Southeast)  
Coastline  
Charleston Co.



C  
(Northwest)  
Fall Line  
Chesterfield Co.

C'  
(Southeast)  
Coastline  
Horry Co.





## Aquifer Recharge

The recharge areas for the state's major aquifers are generally within the Upper Coastal Plain, an exception being surficial aquifers, which are recharged locally (Figure 4). Aquifers extending all the way to the coast are dependent on precipitation infiltrating in the recharge areas in the northwestern Coastal Plains further "up-dip" to continuously replenish groundwater supply. Groundwater in the major aquifers is replenished primarily by infiltration in the Upper Coastal Plain that then permeates slowly towards the coast in the southeastern direction (geologically speaking, "down-dip"). Consequently, the rate at which groundwater is replenished in the aquifers is controlled by the rate at which groundwater travels from the recharge areas, closer to the Fall Line, to the coast. Typical groundwater flow rates for silts to well-sorted sands range from 0.003 to 300 feet per day. This means that once water becomes part of the groundwater system, it may take from a few years to tens of thousands of years to reach the deeper aquifers located along the coast.

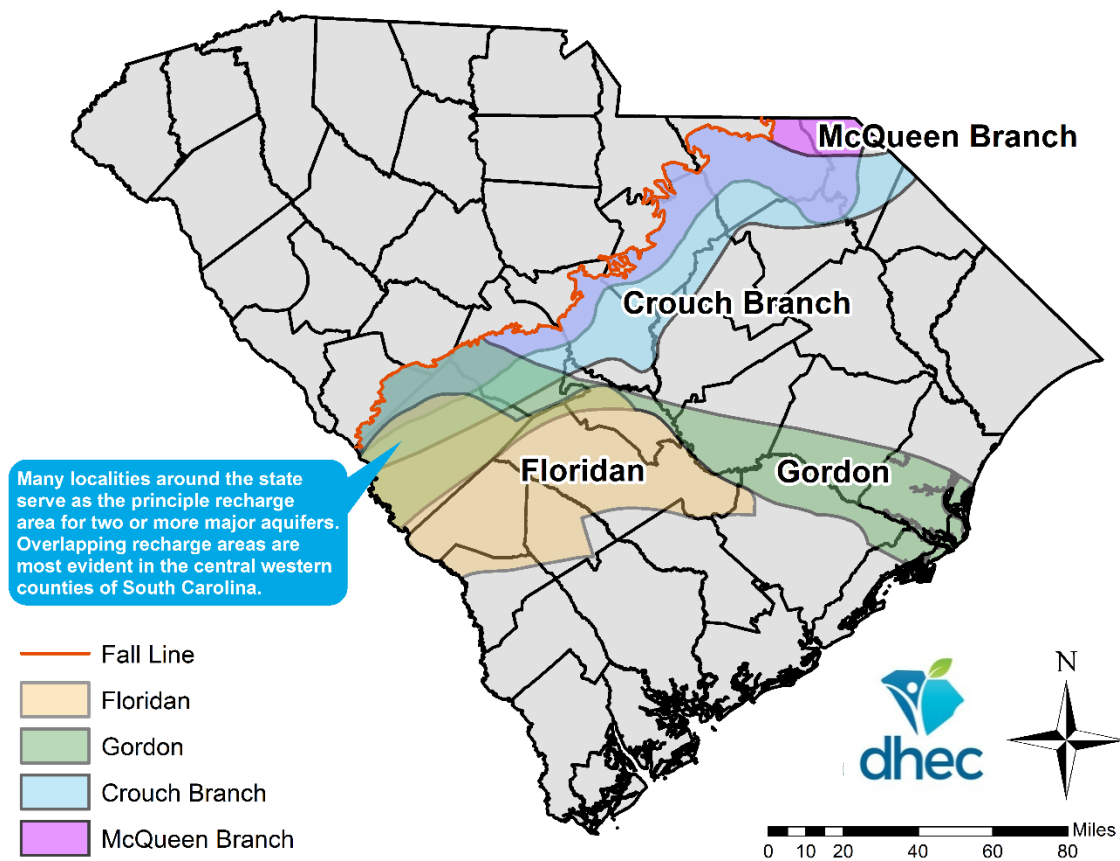


Figure 4: Major SC Aquifer Recharge Areas

## Water Budget

A water budget is a generalized accounting of all water that flows in and out of a given system. A water budget can be described with the following equation:

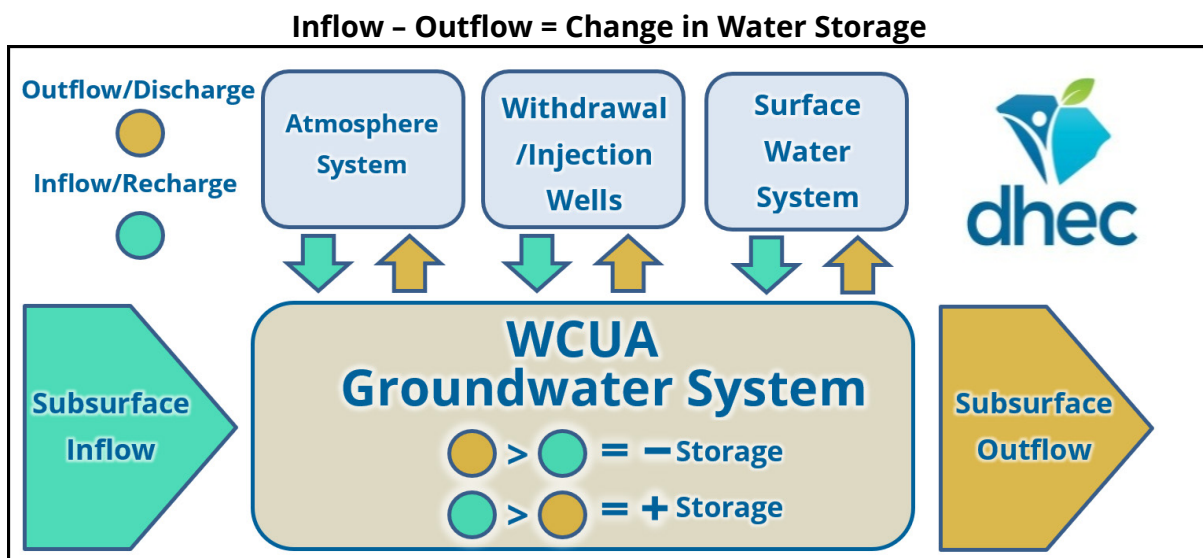


Figure 5: WCUA Generalized Water Budget

When the sum of all outflow components is greater than the sum of all inflow, there is a decrease in storage within a groundwater system (Figure 5). Groundwater storage increases when the opposite is true: the sum of inflow is greater than the sum of outflow. Any change in the components of inflow and/or outflow affects the budget's equilibrium and the various fluxes in and out of the entire system.

In a typical year, South Carolina receives most of its water from precipitation, and the remainder is predominantly surface and subsurface inflow from neighboring states. A relatively small amount of the inflow is attributed to injection wells, which are used to abate localized adverse effects or provide back-up storage. Outflow from the state's water budget is almost entirely attributed to evapotranspiration and to surface water discharge into the ocean. A small amount of the outflow is aquifer discharge into the ocean, and an even smaller amount is due to water withdrawals.

South Carolina receives relatively large amounts of water. However, most water never infiltrates below the root zone into the deeper subsurface to function as groundwater storage. A significant portion of water is taken up by plants within the root zone or discharged into surface water systems before infiltrating deep enough to enter the groundwater system. Therefore, the amount of water that enters as groundwater storage is limited. Inflow into the groundwater system is also heavily dependent on when and where precipitation occurs. The portions of the state where water infiltrates into the aquifers are known as recharge areas (Figure 4). Much of the WCUA acts as a recharge area for confined aquifers that extend to the coast. Weather patterns vary from year to year, so the total volume of water that enters the system is not a static number. Precipitation during hot, summer months when evapotranspiration is at its highest, contributes significantly less to aquifer recharge than if that same amount of precipitation fell during cool, winter months when evapotranspiration is at its lowest.

Variations in inflow and outflow necessitate an adaptive management approach to using and conserving groundwater resources. A water budget is a valuable tool and provides relevant information regarding water resource availability and management; however, a statewide or CUA-wide water budget cannot be used and applied in determining individual permit decisions.

## Regional Description

The WCUA comprises seven counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg. Situated in the mid-southwestern region of South Carolina, it covers approximately 4,723 mi<sup>2</sup> (Figure 6). The largest of the counties, Orangeburg, covers a quarter of the total area; the smallest county, Calhoun, covers just 8.3%. Roughly 117 mi<sup>2</sup> (2.4%) of the WCUA is surface water coverage, and half of that area reflects the portions of Lake Murray in Lexington county. Bamberg county encompasses the least amount of surface water coverage with 2.2 mi<sup>2</sup> (1.9%) of WCUA's total surface water. The WCUA extends 100 miles from north to south and 103 miles in east to west directions.

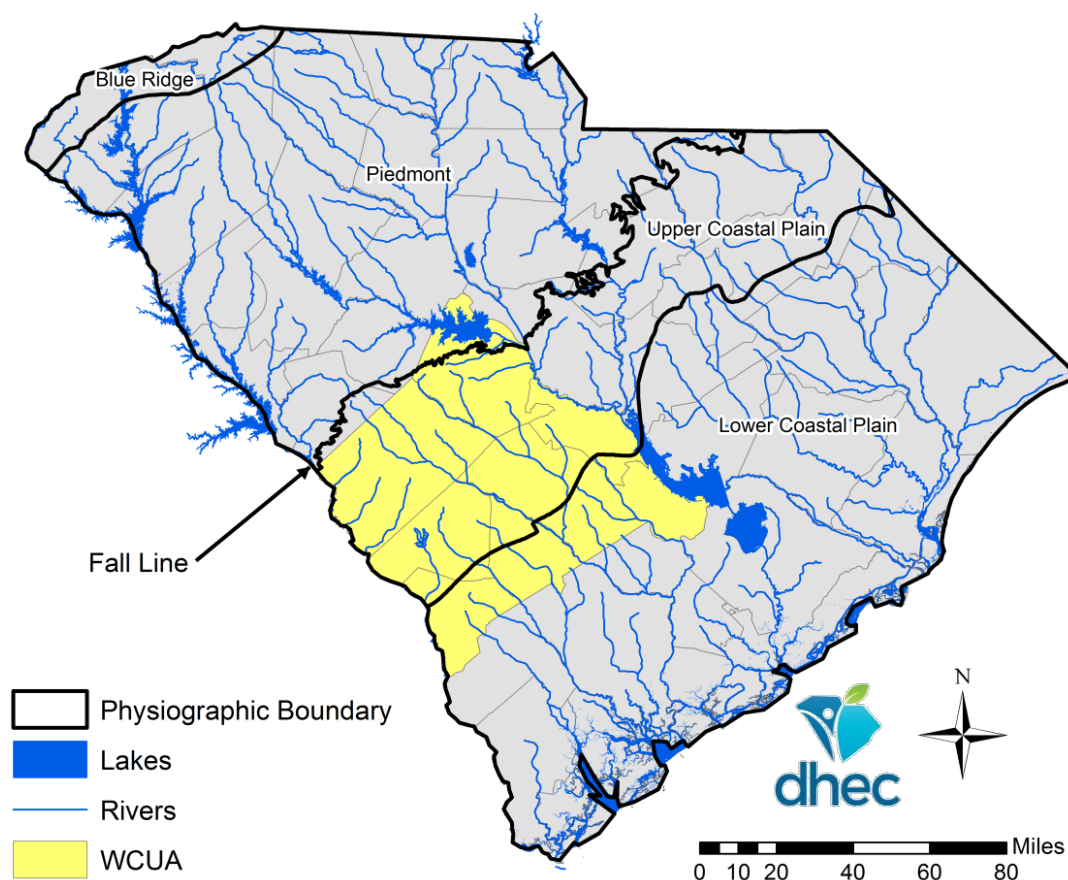


Figure 6: Physiographic Provinces of South Carolina and Major Water Bodies

The entirety of the southwestern border of the WCUA runs along the Savannah River. The northwestern border is vaguely defined by the Fall Line (the geologic boundary that separates the Piedmont from the Coastal Plains) with only portions of Lexington county extending beyond this boundary (Figure 6). Along the northeastern border, several water bodies define the WCUA's extent: Lake Murray, lower Saluda River, Congaree River, upper Santee River, and Lake Marion. The southeastern border is defined not by physiographic



features, but by political boundaries (county lines). The southeastern border is also bounded by the designated Lowcountry and Trident Capacity Use Areas (Figure 1). As a region, the WCUA principally lies within the physiographic province known as the Upper Coastal Plain. However, portions of Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg counties extend into the Lower Coastal Plain, and a portion of Lexington county into the Piedmont. The boundary between the Upper and Lower Coastal Plains is the Orangeburg scarp, a terraced gradient that represents the inland extent of the ocean during the middle Pliocene epoch. The scarp separates different topographic and geologic regions of the state.

## Surface Water

The WCUA is drained by five of the eight major river basins in South Carolina: Savannah, Edisto, Salkehatchie, Saluda, and Santee. Significant rivers within the WCUA include: lower Saluda, Congaree, upper Santee, Four Hole Swamp, North Fork Edisto, South Fork Edisto, Edisto, Little Salkehatchie, Salkehatchie, Coosawatchie, and Upper Three Runs. There are no naturally formed lakes in the state, only lakes created by dammed river systems. The three largest lakes in the WCUA are Lake Murray, Lake Marion, and Par Pond. Surface water bodies incise and interact heavily with aquifer systems within the region, especially closest to the Fall Line. In some cases, the incised valleys isolate water-bearing units from the greater regional aquifer(s) (Figure 7). The intimate interconnectivity of surface and groundwater in the WCUA is a defining regional characteristic.

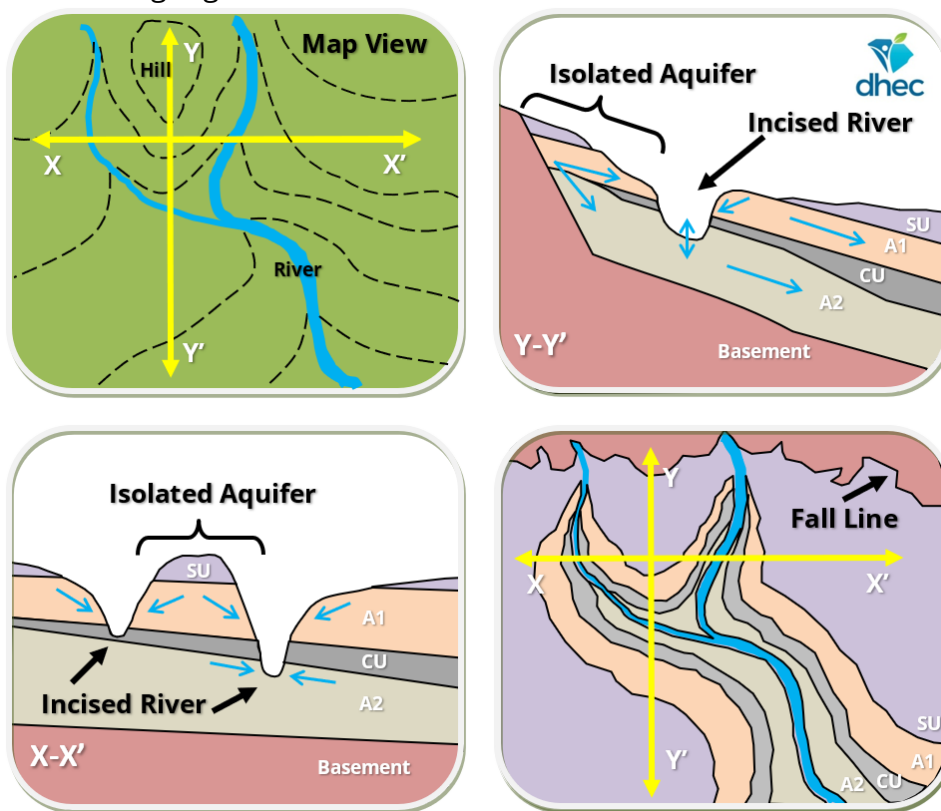


Figure 7: Isolated Aquifer Diagram (Top Left: Map View with Lines of Elevation; Top Right: Y-Y' Cross Section; Bottom Left: X-X' Cross Section; Bottom Right: Map View Showing Surface Exposure of Hydrogeologic Units) (SU=Surface Unit; A1=Aquifer 1; CU=Confining Unit)

## Topography and Geology

Within the WCUA, the ground elevation ranges from 60 to 650 feet above mean sea level. In Aiken and Lexington counties, several hard-rock outcrops along the Fall Line expose the underlying granitic and gneissic bedrock of the Piedmont. Beginning at the Fall Line and traveling seaward, the topography transitions from undulating hills incised by stream valleys into low-relief plains with broad meandering rivers. The higher relief hills are predominantly composed of micaceous and kaolinitic sands with clay lenses deposited from marine to marginal marine environments. Much of the landscape has also been reworked by streams and rivers leaving behind fluvial deposits of fertile, loamy soils. The WCUA is scattered with isolated wetlands known as Carolina Bays, expansive floodplains, and cypress swamps with organic rich material underlying and surrounding these areas.

## Climate

The Western Capacity Use Area, much like the entire southeastern United States, is characterized as a sub-tropical climate. The WCUA experiences warm, humid summers and mild winters. Proximity to the lower Appalachian Mountains and the Atlantic Ocean considerably affects the regional climate. The middle portion of the state is warmer and receives less rainfall than other areas of South Carolina. The WCUA does not receive as much of the cooling effects associated with the higher altitudes of the upstate or from the ocean breezes of the coast. Furthermore, the area is too far inland to be significantly influenced by coastal storm cells and is too far from the mountains to be influenced by the temperate rainforest conditions of the lower Appalachians. The average annual temperature of the seven-county area from (1981-2010) is 63.57°F with normal maximum and minimum annual temperatures of 75.73°F and 51.41°F, respectively (Figure 8). On average, the WCUA receives 47.78 inches of precipitation annually (Figure 8).

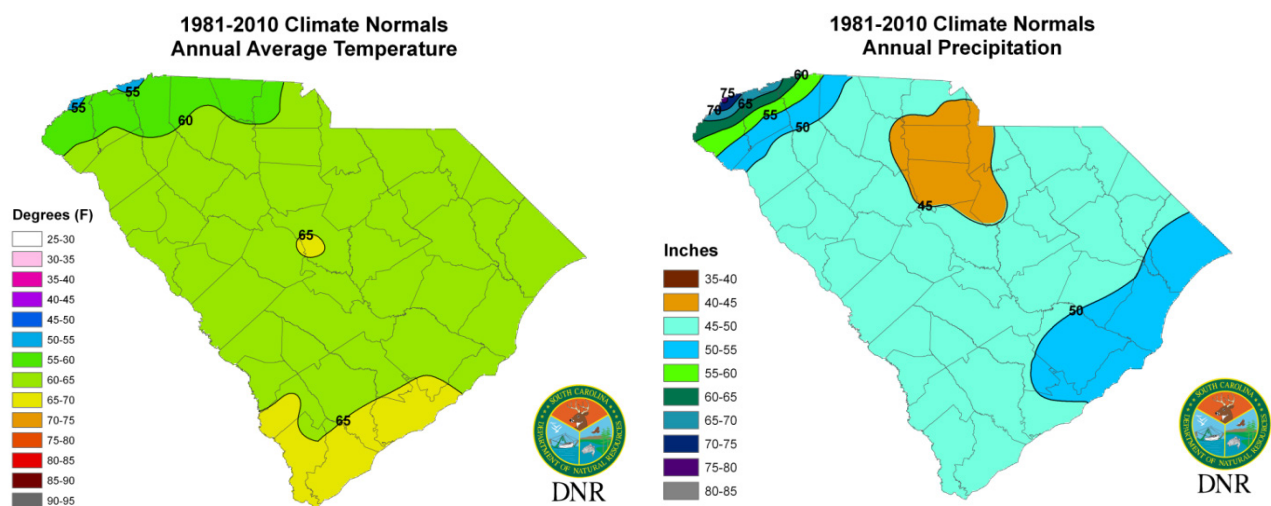


Figure 8: Climate Normals (1981-2010) (Left: Annual Average Temperature; Right: Annual Average Precipitation)



Climate has direct effects on South Carolina's aquifers, and the magnitude of those effects varies based on depth, location, and interconnectivity of the aquifers with the surface. Deeper aquifers are separated from the land surface by other aquifers and confining units, making them less susceptible to variations in climate patterns. Monitoring data demonstrate that groundwater levels rise during wetter periods and fall during drier periods. Figure 9 illustrates the impact that climate variation can have on water levels by comparing the 24-Month Standard Precipitation Index to Water Levels in Lex-0844. Lex-0844 is believed to have minimal impacts from nearby pumping and therefore, represents how the water levels in the Upper Coastal Plain respond to changes in recharge.

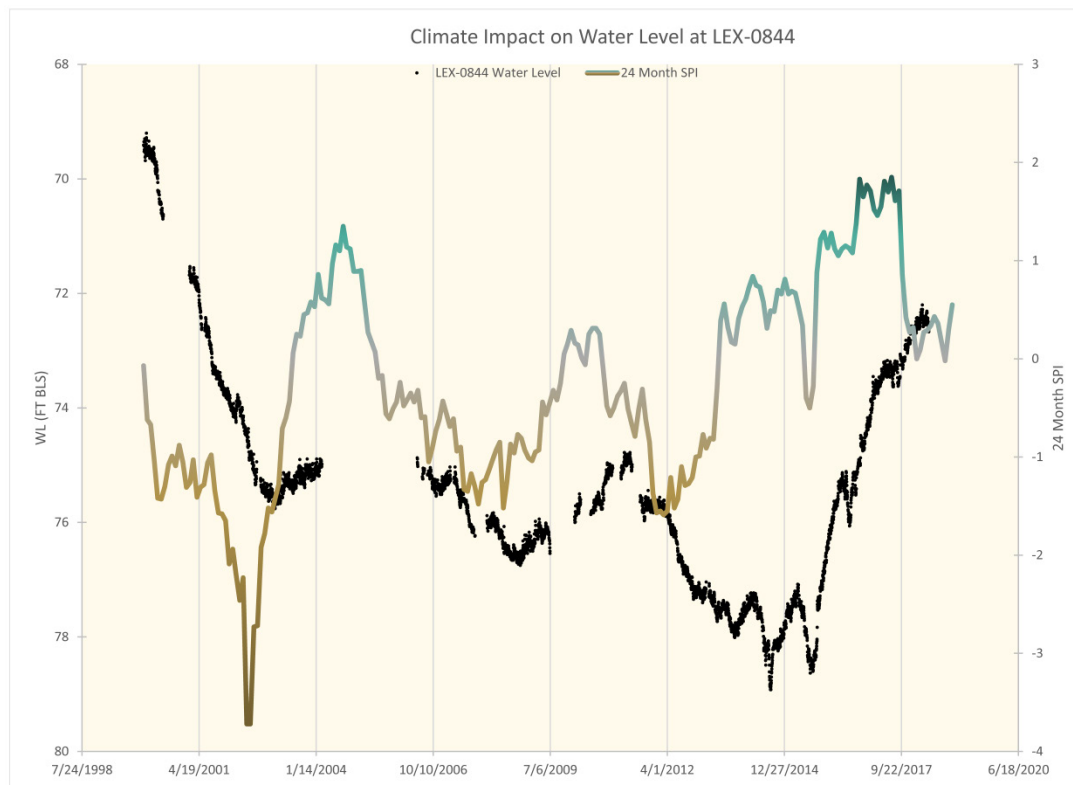


Figure 9: Climate Impact on Groundwater Levels (Black Dotted Line=Water Level in Feet Below Surface; Brown-Green Line: 24-Month SPI Where Brown is Drier and Green is Wetter)

## Land Cover

The WCUA is predominantly a rural portion of the state with sparse regions of urban land cover. Most urban coverage is concentrated in eastern Lexington county, central and western Aiken county, and central Orangeburg county (Figure 10). In recent years these select regions have experienced population growth and concomitant increase in development and urban land cover; however, much of the seven-county area is covered in forest, wetlands, and farmlands (Figure 10).

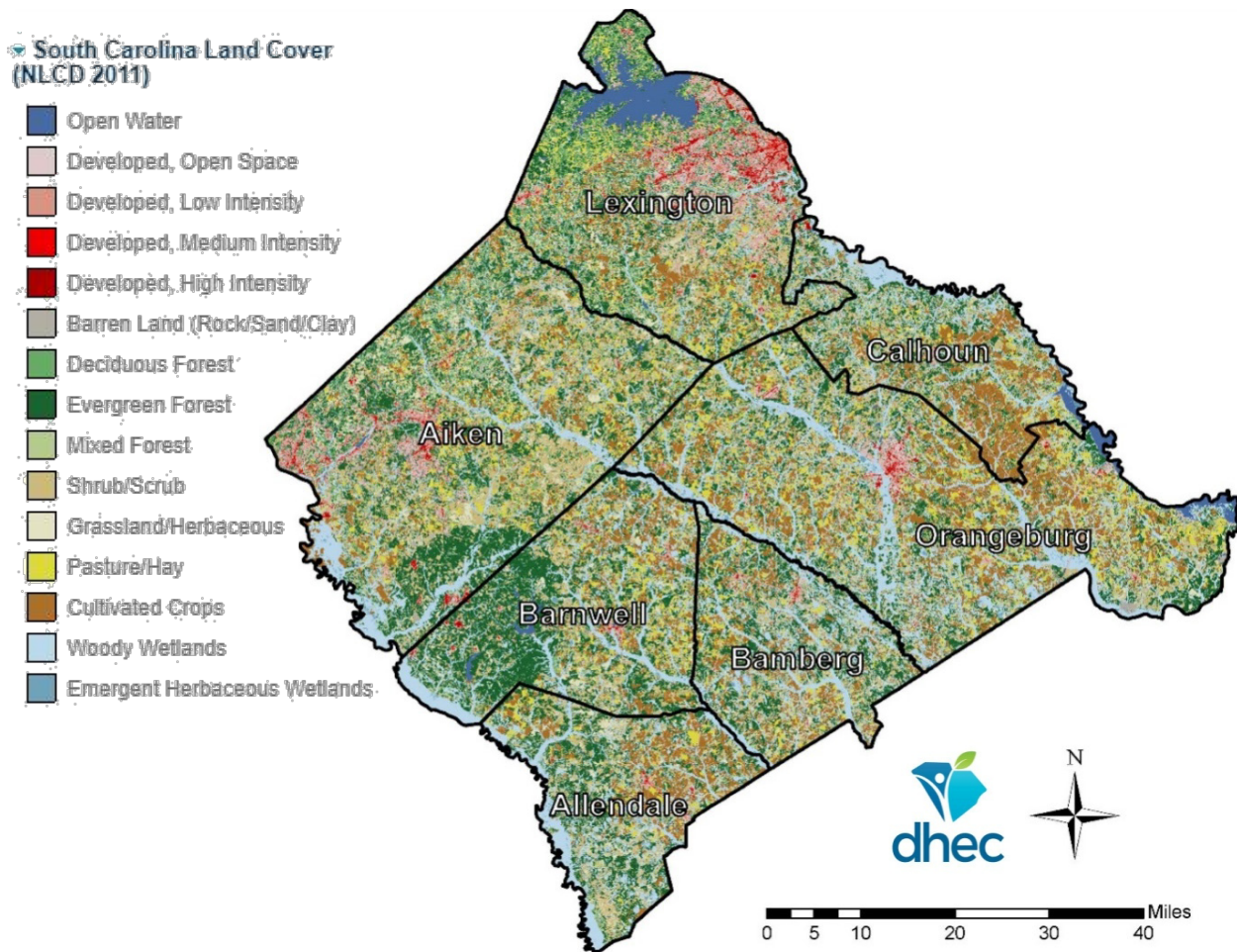


Figure 10: Western Capacity Use Area Land Cover (National Land Cover Database, 2011)

Per the latest USDA Census of Agriculture (2017), one-third (971,205 acres) of the land cover within the WCUA is used for farmland operations (Figure 11). Overall, there was a 6.2% increase in reported farmland operational use since 2002; however, the growth varied across the region. While Aiken, Calhoun, and Orangeburg counties reported increases, Allendale, Bamberg, Barnwell, and Lexington counties reported declines (Figure 11).

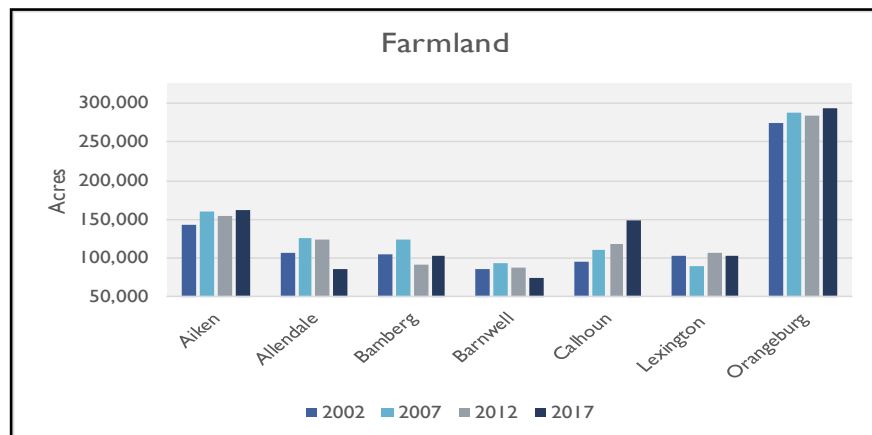


Figure 11: Farmland Operational Use Acreage by WCUA County (USDA, 2002-2017)

During the period of 2002 to 2017, agricultural cropland acreage reported to the USDA increased by 30.3%. Six of the seven counties reported increases in agricultural cropland, the exception being Allendale, which reported an overall decrease since 2002 (Figure 12). Total reported agricultural cropland acreage in 2017 was 366,394 acres.

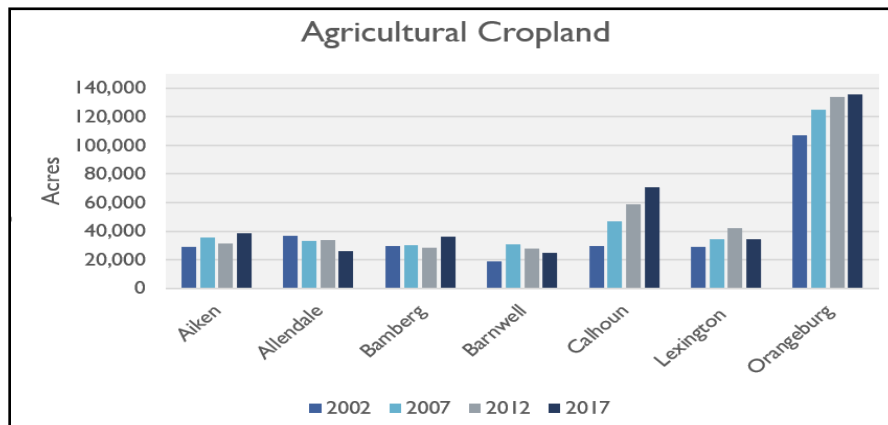


Figure 12: Agricultural Cropland Acreage by WCUA County (USDA, 2002-2017)

Irrigated acreage within the WCUA, as reported to the USDA, increased 134.7% during the period 2002 to 2017. All the counties have reported increases in irrigated acreage, except Allendale, which reported decreases in each census since the turn of the century (Figure 13). Total reported irrigated acreage in 2017 was 104,288 acres.

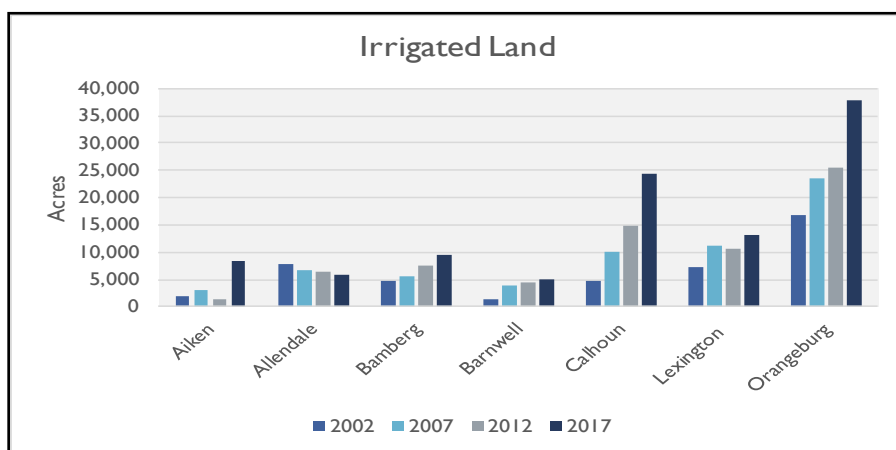


Figure 13: Irrigated Land Acreage by WCUA County (USDA, 2002-2017)

## Groundwater Trends

A detailed review of groundwater trends in the seven Western Area counties may be found in the initial assessment<sup>1</sup>. Briefly, the SC DNR Groundwater Monitoring Network wells indicate long-term water level declines of up to 15 feet for the Floridan/Gordon, Crouch Branch, and McQueen Branch aquifers. Seasonal water level declines associated with increased reported water use during the summer months are also apparent in many of these water-level records. A map of the SC DNR Groundwater Monitoring Network wells along with the most current water level records for wells within the WCUA may be found in Appendix A.

SC DNR has prepared potentiometric surface maps of the coastal plain aquifers of South Carolina since the 1980s<sup>2</sup>. Appendix B contains a subset of these maps in the WCUA for the major aquifers beginning with data from 2001. Please note that measurements were not made in each aquifer for each year. Groundwater flow within all three major aquifers is generally to the southeast with a portion of the flow curving to the southwest in Aiken, Barnwell, and Allendale counties. There have been no major cones of depression apparent in the seven counties.

## Current Groundwater Demand

There are 1,041 currently permitted Capacity Use wells in the WCUA (Table 2). One-third of these wells are located in Orangeburg county and nearly three-fourths are permitted for irrigation use. The number of irrigation wells exceeds those of other use categories for all of the WCUA with the exception of Aiken county in which the water supply category contains the highest number of wells.

Table 2: WCUA: Current Number of Wells by Permit Category and County

Water Use Category	Aiken	Allendale	Bamberg	Barnwell	Calhoun	Lexington	Orangeburg	Totals
Aquaculture (AQ)	0	0	0	0	0	0	0	0
Golf Course (GC)	4	0	0	0	1	2	3	10
Industry (IN)	45	3	0	2	1	10	9	70
Irrigation (IR)	50	44	64	44	164	80	308	754
Mining (MI)	0	0	0	0	1	10	1	12
Hydro Power (PH)	0	0	0	0	0	0	0	0
Thermo Power (PT)	0	3	0	0	0	0	2	5
Nuclear Power (PN)	0	0	0	0	0	0	0	0
Water Supply (WS)	92	12	13	24	8	20	21	190
Other (OT)	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>191</b>	<b>62</b>	<b>77</b>	<b>70</b>	<b>175</b>	<b>122</b>	<b>344</b>	<b>1,041</b>

Water use reported for 2018 totaled 40,801 million gallons (MG) (Table 3). Aiken and Orangeburg counties reported the highest total reported water use comprising 20% and

<sup>1</sup> SC DHEC and SC DNR (2017). A Preliminary Assessment of the Groundwater Conditions in Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties, South Carolina. May 2017. Columbia, South Carolina.

<sup>2</sup> SC DNR Website. <http://www.dnr.sc.gov/water/hydro/PubsDNRrep.htm>. Accessed June 11, 2019.

28%, respectively, and Bamberg and Barnwell counties reported the least at roughly 7% each. The majority of reported water use was for irrigation (67.5%), followed by water supply (19.9%), industry (5.4%), mining (4.1%), thermal power generation (2.8%), and golf course irrigation (0.3%). Monthly reported water use for 2018 shows the seasonality inherent in irrigation, which increases during the spring months and peaks between June and August (Figure 14). Monthly reported water use for industry, water supply, thermo power and mining remained comparatively constant during 2018.

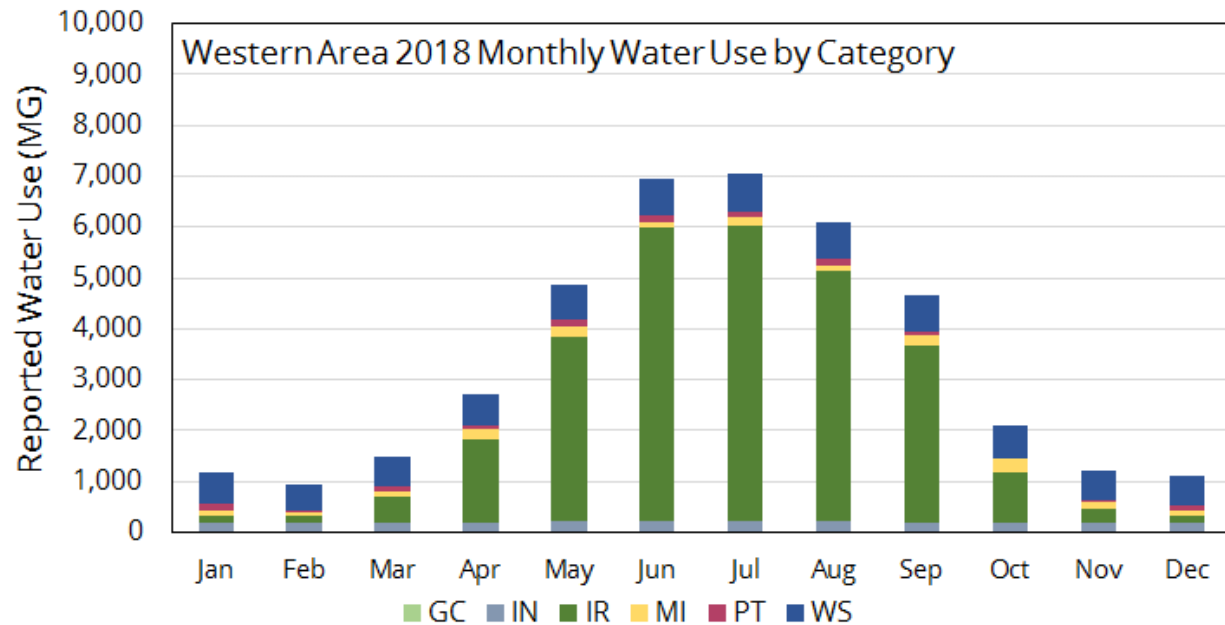


Figure 14: WCUA: Reported Monthly Water Use by Category, 2018

Table 3: WCUA: Reported Water Use<sup>a</sup> by Permit Category and County, 2018

Water Use Category	Aiken	Allendale	Bamberg	Barnwell	Calhoun	Lexington	Orangeburg	Totals	Percent Of Total
Aquaculture	0	0	0	0	0	0	0	0	0%
Golf Course	17	0	0	0	1	21	78	117	0.3%
Industry	620	739	0	133	3	345	376	2,215	5.4%
Irrigation	2,269	3,223	2,372	1,578	5,349	3,480	9,267	27,539	67.5%
Mining	0	0	0	0	0	1,212	463	1,675	4.1%
Hydro Power	0	0	0	0	0	0	0	0	0%
Nuclear Power	0	0	0	0	0	0	0	0	0%
Thermo Power	0	136	0	0	0	0	982	1,118	2.8%
Water Supply	5,034	468	339	1,023	378	523	372	8,137	19.9%
Other	0	0	0	0	0	0	0	0	0%
<b>TOTAL</b>	<b>7,941</b>	<b>4,566</b>	<b>2,711</b>	<b>2,734</b>	<b>5,731</b>	<b>5,581</b>	<b>11,538</b>	<b>40,801</b>	<b>100%</b>
<b>Percent of Total</b>	<b>19.5%</b>	<b>11.2%</b>	<b>6.6%</b>	<b>6.7%</b>	<b>14.0%</b>	<b>13.7%</b>	<b>28.3%</b>	<b>100%</b>	

<sup>a</sup>Water use is reported in Millions of Gallons (MG). For example, 9,210 is 9,210,000,000 gallons.

## Historic Water Demand

Water use reported between 2001 and 2018 by county and by use category are presented in Figures 15 and 16. Total reported water use remained relatively stable from 2001 through 2013 with the exception of 2003 and 2013, during which the Western Area counties received increased precipitation during the spring growing season. Beginning in 2014, reported water use began to increase, reaching a maximum of 41,039 MG in 2017. The majority of this recent increase was within the irrigation use category (Figure 16), as all other use categories remained relatively constant, and reported industrial water use decreased.

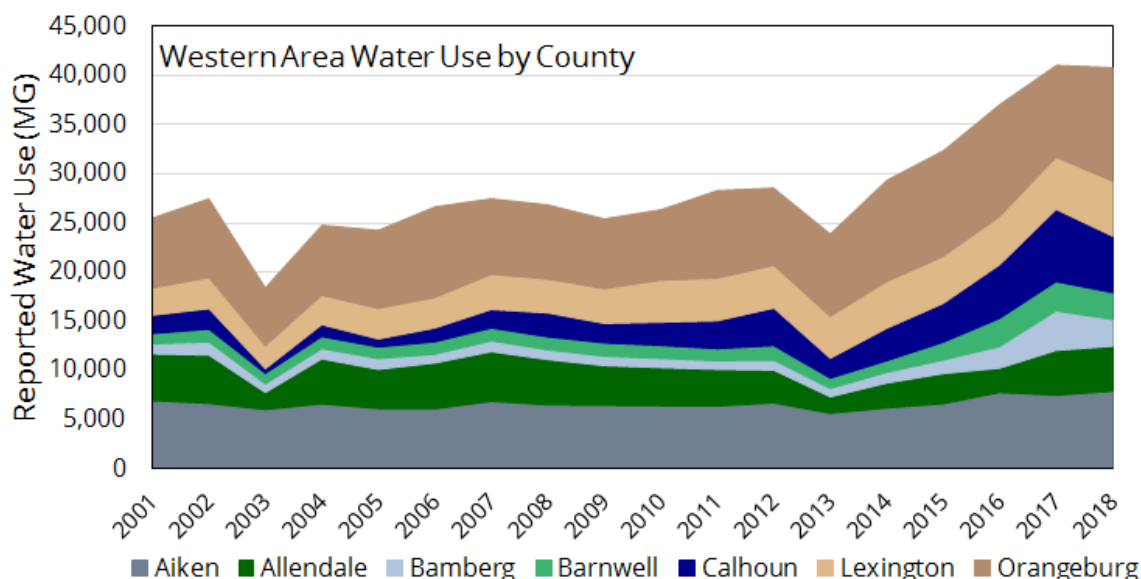


Figure 15: WCUA: Reported Annual Water Use by County, 2001-2018

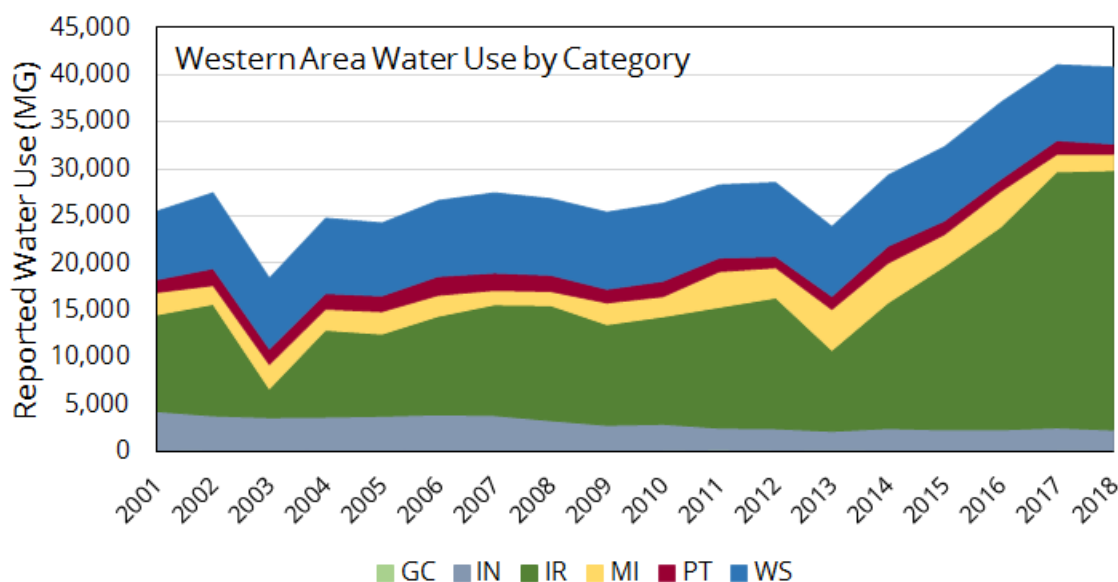


Figure 16: WCUA: Reported Annual Water Use by Category, 2001-2018



During the same period, the total population in the WCUA increased from 520,813 in 2001 to 610,177 in 2018 (Figure 17). This population change was the result of large population increases in Aiken and Lexington counties while Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg counties experienced small decreases in population. Comparing the Western Area counties' historic reported water use (Figure 15) with changes in population (Figure 17) suggests that the increase in reported water use cannot be explained by population changes alone.

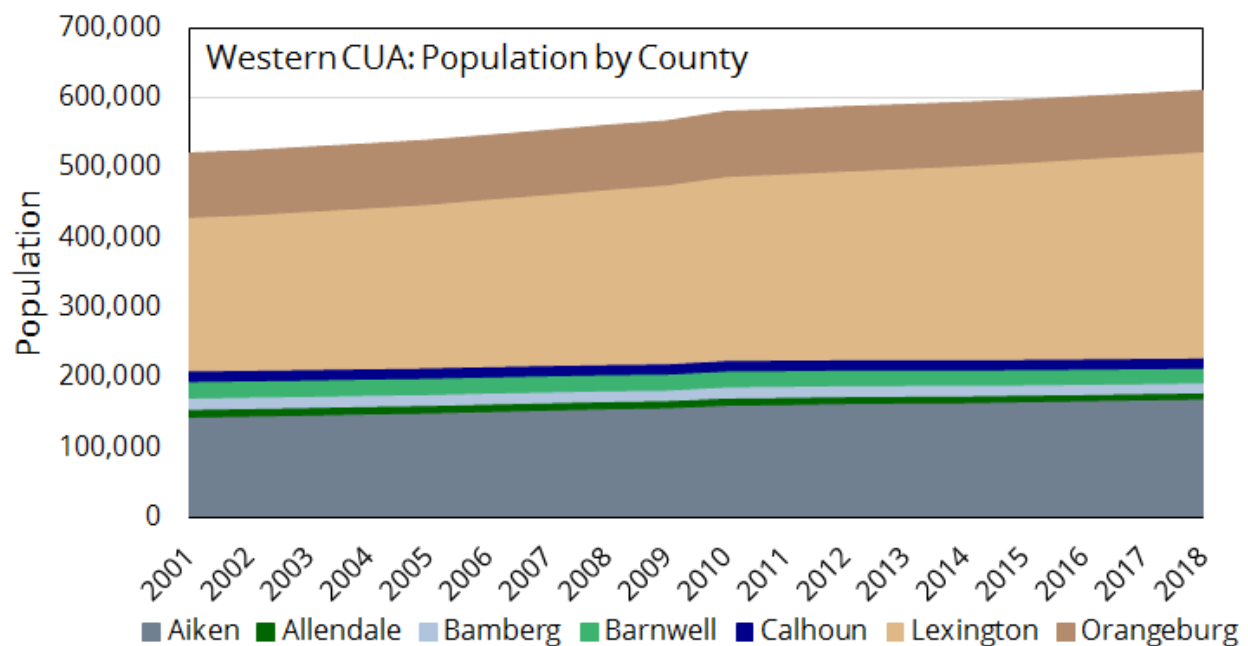


Figure 17: WCUA: Population by County, 2001-2018 (US Census Bureau)

## Western Area Irrigation

The increase in reported water use for irrigation may be the result of several factors including an increased volume per well, an increased number of wells, or an increase in the number of acres irrigated in the Western Area counties. These factors cannot be isolated and analyzed individually. From 2002 to 2018, both the number of reporting irrigation wells and reported water use increased (Figure 18). Part of the rapid increase in number of wells and reported water use beginning in 2014 is at least partly due to greater public awareness during the initial assessment of the Western Area counties. Greater public awareness led to increased compliance with the reporting requirement of the Groundwater Use and Reporting Act (R.16-113). The increase in the number of irrigation wells and reported water use may not necessarily correspond to increased water withdrawal for each irrigation well (Figure 19).



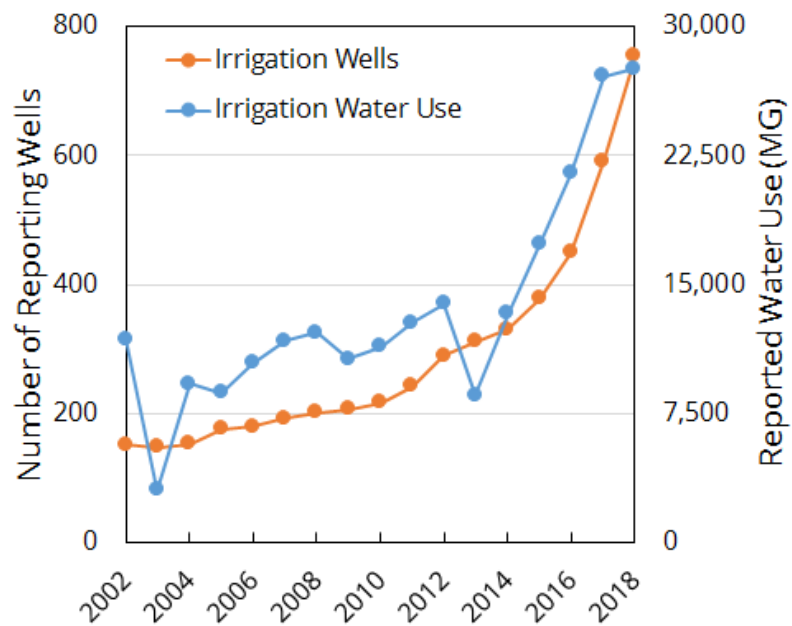


Figure 18: Number of Reporting Irrigation Wells and Reported Water Use for Irrigation from 2002-2018 for all Western Area Counties

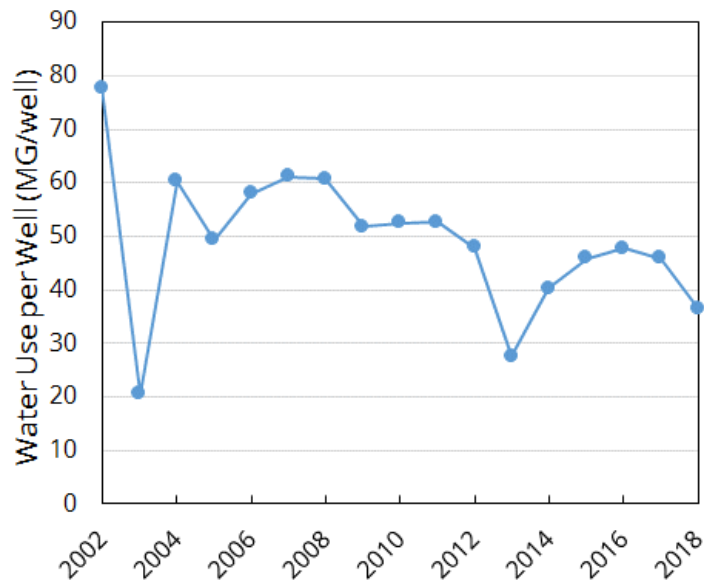


Figure 19: Reported Water Use Per Irrigation Well Reporting from 2002-2018 for all Western Area Counties. Calculated as Total Reported Water Use /Number of Reporting Wells

## Groundwater Management Strategy

The Groundwater Management Plan outlines a process to establish and implement a local groundwater management program in the WCUA; the enabling legislation requires that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources (Chapter 5, Section 49-5-20). In short, the goal is to develop and implement a sustainable use, adaptive-management strategy. Ultimately, SC DHEC will use all available scientific data that allow for informed permitting decisions and monitoring for potential adverse effects. The key strategies to achieve these goals are outlined below.

### Strategy #1: Establish a Comprehensive Groundwater Monitoring Program

With increases in population, irrigated acreage, and a growing industrial base, water demand (from both surface and groundwater) continues to grow steadily. Although water level declines are a normal response to groundwater withdrawals, not stabilizing these declines may cause serious impairment to the aquifers and groundwater quality of the region. SC DHEC will pursue partnerships with local entities, groundwater users, and other agencies (both Federal and State) to facilitate the most effective use of resources in designing and maintaining a monitoring network for the WCUA. Both SC DNR and SC DHEC maintain several groundwater level monitoring locations in the WCUA.

Although the WCUA has the most extensive groundwater monitoring network of all the Capacity Use Areas, expanding the current network will allow more accurate monitoring of groundwater level conditions and facilitate science-based recommendations for strategies to address any stressed aquifer conditions in the area (see Appendix A). An expanded groundwater monitoring network is necessary to:

- Provide accurate data on the amount and rate of groundwater level changes;
- Provide groundwater withdrawers with timely and accurate information to effectively manage withdrawal activities;
- Establish the correlation between groundwater pumping and water level changes, both on the local and regional scale; and
- Guide management efforts to minimize potential impairment of the aquifers and track progress in reversing water level declines.

A goal for the comprehensive groundwater monitoring network should be a complete coverage and network of wells for each aquifer in each of the WCUA counties. Installation of wells in Bamberg county is especially critical, as there are no SC DNR monitoring stations in that area. Additional actions to achieve this goal include the following:

- Cooperate with local, state, and federal partners to expand groundwater monitoring networks and sharing of well data;

- Promote partnerships in the state to identify wells that may be incorporated and of benefit to the well network; and
- Identify wells scheduled for abandonment that may be incorporated and of benefit to the well network.

## Strategy #2: Identify Geographic Areas of Concern and Level/Reduce Pumping Where Appropriate

Prior to each permit renewal cycle, SC DHEC will consider the best available information on the geologic and hydrogeologic characteristics of the aquifer(s) and groundwater withdrawals of the area to protect against or abate unreasonable, or potentially unreasonable, adverse effects on the aquifer(s) and water users of the WCUA. Measures that SC DHEC may require applicants, permit holders, and groundwater withdrawers to take may include, but not be limited to, the following:

- Reduce/Level groundwater withdrawals in areas of concentrated pumping;
- Reduce/Level groundwater withdrawals in areas where it is found to be in the public interest or general welfare, or to protect the water resource;
- Utilize other available freshwater aquifers than those currently used;
- Utilize conjunctive use of aquifers, or waters of less desirable quality, where water quality of a specific character is not essential;
- Utilize the groundwater model of the coastal aquifers that has been developed by the USGS and SC DNR to determine the potential for adverse effects;
- Prohibit the hydraulic connection of aquifers that could result in deterioration of water quality in freshwater aquifers;
- Implement abandonment of wells, which will be filled with cement grout, plugged, and sealed;
- Implement abandonment of wells that have penetrated zones of undesirable water quality where such wells are found to cause contamination of freshwater aquifers where undesirable water quality is defined as not meeting the standards for Class GB Waters as listed in *Water Classifications & Standards*, R.61-68.H.9;
- Implement construction and use of observation or monitoring wells;
- Implement reasonable and practical methods to conserve and protect the water resources and to avoid or minimize adverse effects of the quantity and quality of water available to persons whose water supply has been materially reduced or impaired as a result of groundwater withdrawals; and
- Implement such other necessary and appropriate control or abatement techniques as are technically feasible.

## Strategy #3: Review Permit Applications Based on Demonstrated Reasonable Use

Proposed withdrawals will be evaluated considering reasonable use and need, aquifer(s) being utilized, potential adverse effects on adjacent groundwater withdrawers, previous

reported water use, anticipated demand for the proposed activities, availability of alternate water sources, and reported water use at facilities with similar activities. Applications for groundwater withdrawal will incorporate a “Water Use Plan” or a “Best Management Strategy” detailing actual or proposed water use activities and all conservation techniques for site specific water management including, but not limited, to:

- Provide appropriate documentation that the proposed water use is a beneficial use of the resource and necessary to meet the reasonable needs of the applicant;
- Describe in detail the applications for which the water is being withdrawn and approximate quantities utilized in each application;
- Identify the aquifer(s) currently utilized and the hydrogeologic (groundwater quality, specific capacity/yield, etc.) factors for utilization, and if a less utilized aquifer is suitable to meet the facility’s need;
- Identify additional or alternate sources of water, including surface water, effluent, or recycled water, among others, suitable to meet the needs of the applicant and supplement, minimize, or eliminate groundwater sources;
- Identify reasonable and appropriate conservation methods or practices that maximize efficiency of current water use and reduce current water demand; and
- Identify any existing or anticipated adverse effects on other groundwater withdrawers, including public use, and strategies to eliminate or minimize these effects.

#### Strategy #4: Establish an Educational Plan for the General Public and Existing Groundwater Withdrawers

General public, stakeholder, and permittee education outreach and awareness are a cornerstone to the development of successful water management strategies. SC DHEC will coordinate with the Stakeholder Workgroup and other appropriate partners to develop educational resources, strategies, and incentives for conservation. An effective water management educational plan should incorporate the following:

- Provide audience-based public education and outreach programs;
- Provide best available information on current systematic and industry-based standards;
- Engage with state and local governments;
- Establish and promote conservation measures through:
  1. Enhanced water use efficiency;
  2. Identification of water losses and establishment of corrective actions; and
  3. Preparation for water shortages and implementation of appropriate responses.

#### Strategy #5: Manage Through Regulation and Planning

The Groundwater Use and Reporting Act provides for regulation of water withdrawals in South Carolina. Groundwater regulation is necessary to conserve and protect these

resources, prevent waste, and provide and maintain conditions which are conducive to the development and use of water resources. As data are developed on the groundwater resources of the designated Capacity Use Areas, the regulations will be reviewed to ensure adequate adherence to the legislative declaration of policy laid out in Title 49, Chapter 5-20.

SC DNR is responsible for developing and updating the State Water Plan. A groundwater model of the Coastal Plain aquifers has been developed by the USGS and SC DNR. As ongoing results of the modeling effort and the updates to the State Water Plan become available, they will help inform potential regulatory and policy changes and will be incorporated into this Groundwater Management Plan.

### Strategy #6: Establish A Plan for Continual Stakeholder Engagement And Awareness Of Groundwater Development

As part of the permitting process, stakeholder involvement, comment, and recommendations will be incorporated during the public comment period of the permit application. SC DHEC requires groundwater withdrawers to publish a public notice for one day in a newspaper of general circulation within the CUA in which the groundwater is to be withdrawn. SC DHEC additionally publishes public notices for the entirety of the 30-day public comment period on the Environmental Public Notices page of the official SC DHEC website. Continuous engagement with stakeholders and other interested persons is important to promote awareness of groundwater development and general education. An effective plan for continued engagement should incorporate the following:

- Maintain a Stakeholder Workgroup that is diverse in geographic and type-use representation to serve in an advisory role and as a partner for engagement within the WCUA communities;
- Provide and maintain a Stakeholder Workgroup to receive direct notice of proposed permitting actions during the public notice period;
- Provide a Stakeholder Workgroup a forum for SC DHEC to present each quinquennial draft GMP Report, receive comments for consideration as the draft is finalized, and evaluate whether considerations are needed for an updated GMP and a reconvening of the Stakeholder Workgroup to do such; and
- Provide a Stakeholder Workgroup an annual update of water use and conditions in the WCUA.

## Groundwater Management Plan Reports

Every five (5) years, total annual groundwater withdrawals will be compiled and compared to available aquifer potentiometric maps. The report will include the following information:

- Listing of all permitted withdrawers, permitted withdrawal limits, and average groundwater withdrawal;
- Evaluation of withdrawal by category and by aquifer; and
- Identification of the aquifer(s) and area(s) with observed and potential adverse effects and all withdrawers utilizing the aquifer(s).

Based on the information developed for the plan report, modifications of groundwater withdrawals in identified areas will be reviewed and subsequently the Groundwater Management Plan may be amended. The report will also evaluate, as information is developed, changes in water quality of the aquifers, available storage capacity of the aquifers, project future rates of withdrawal, and estimated future groundwater declines from the projected withdrawal rates. Through time, a safe sustainable yield for each aquifer will be developed and subsequent withdrawal limits will be based on this available yield. The final report and updated GMP will be shared with the stakeholders and the permit renewals will be issued consistent with the report and the plan.

## **Appendix A**

South Carolina Department of Natural Resources  
Groundwater Monitoring Network Hydrographs  
Western Capacity Use Area Counties

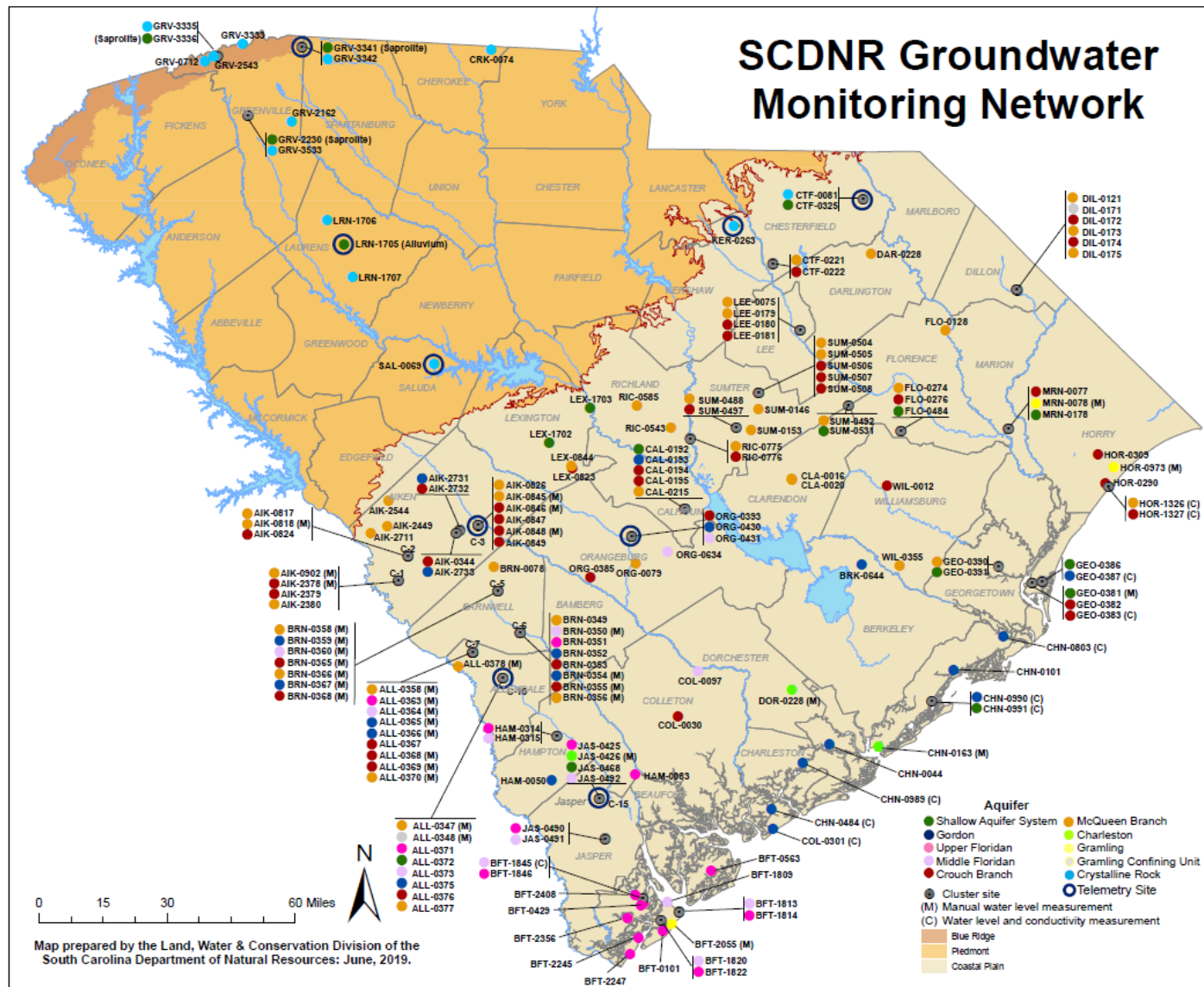
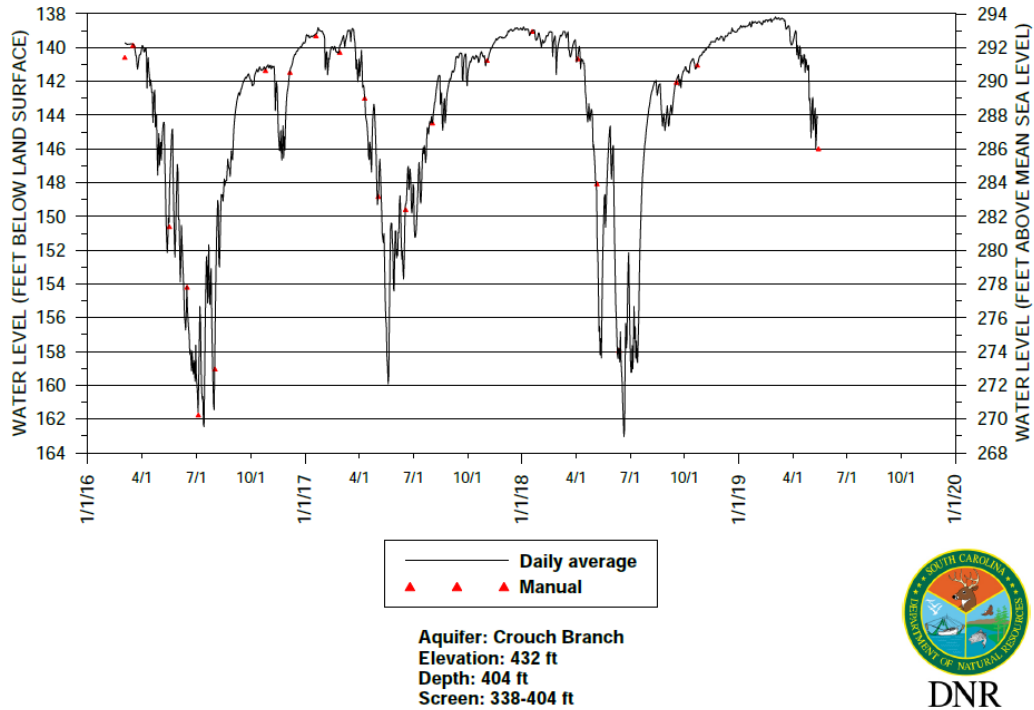


Figure A-20. Map indicating the locations of the wells in the SC DNR groundwater monitoring network. The following pages contain the current hydrographs for each Western Area County with the exception of Bamberg County in which there are no network wells.

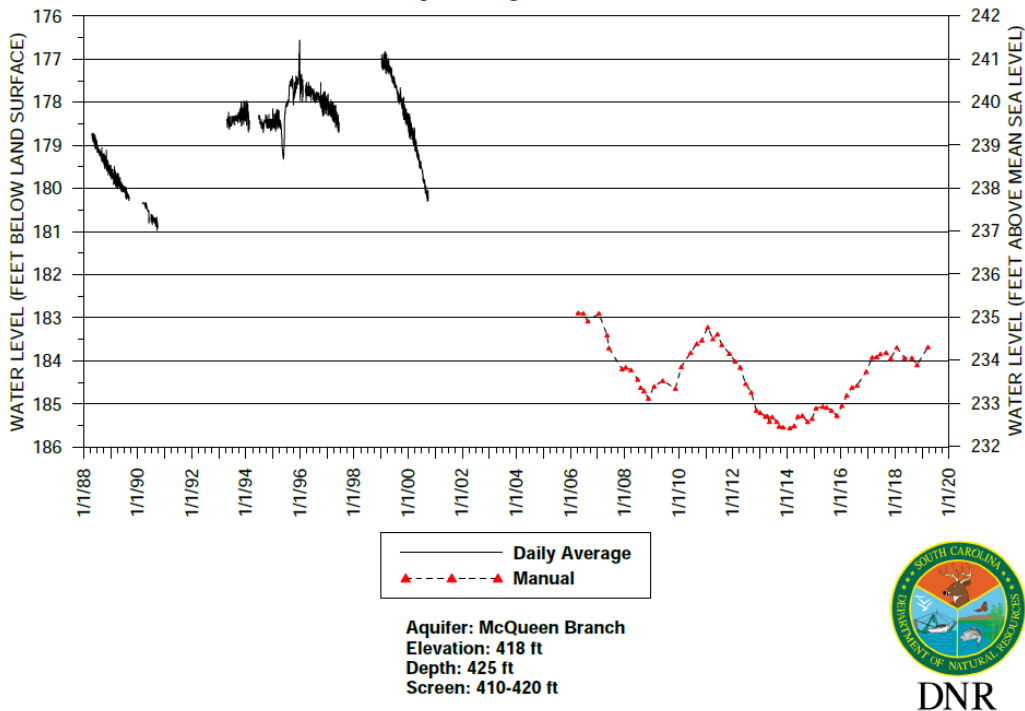


## Aiken County

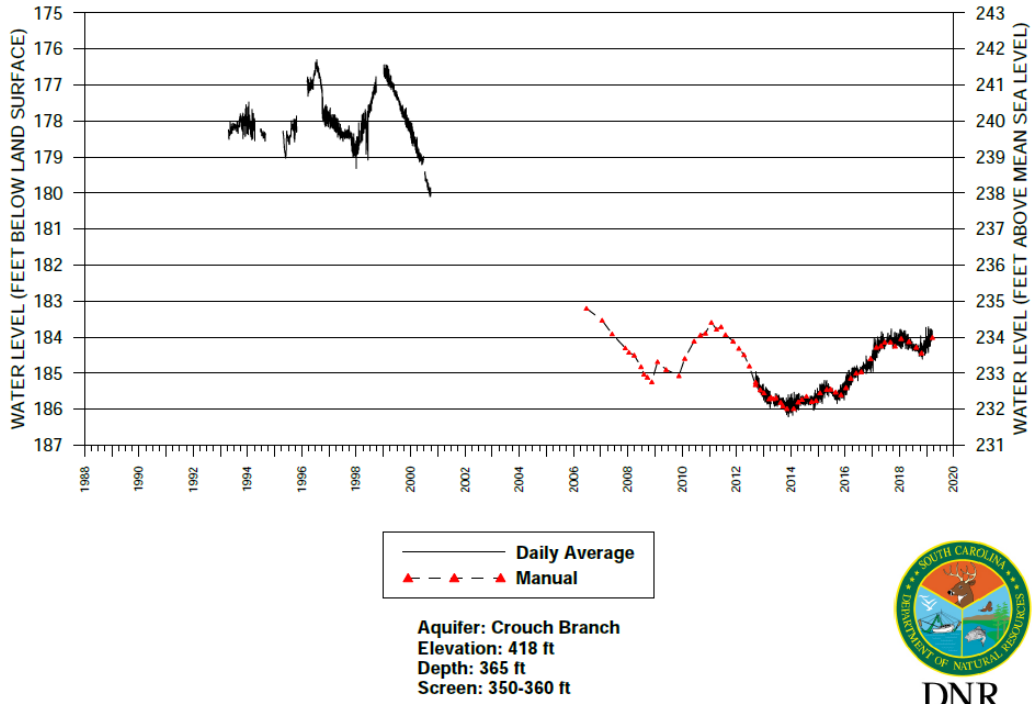
**AIK-0344 Daily Average and Manual Water Levels**



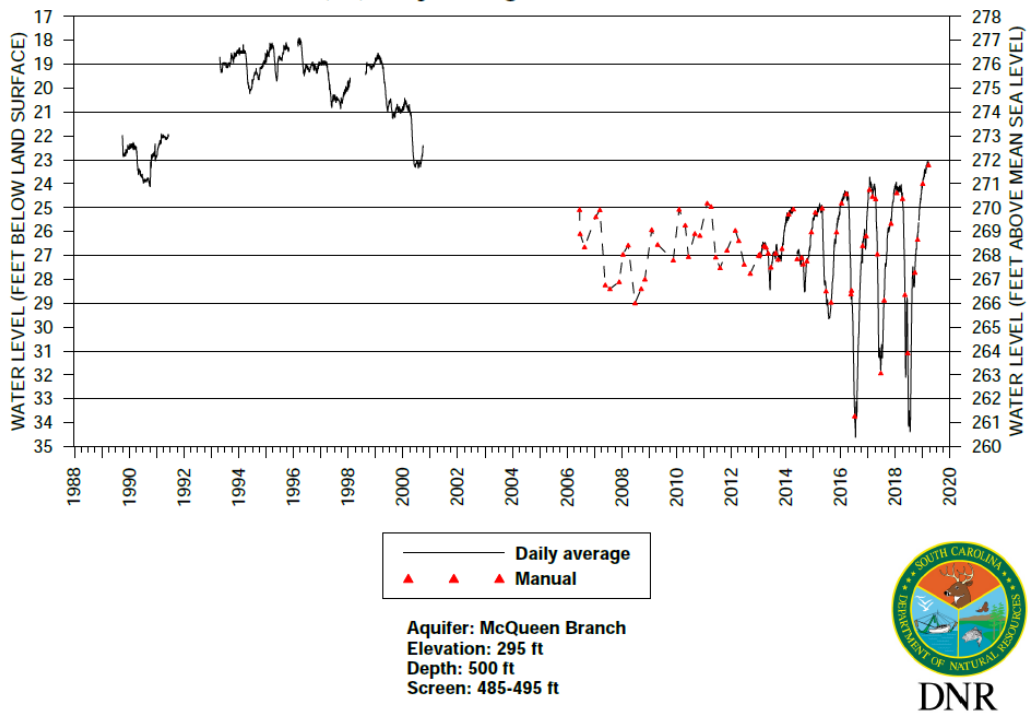
**AIK-0818 (C-2) Daily Average and Manual Water Levels**



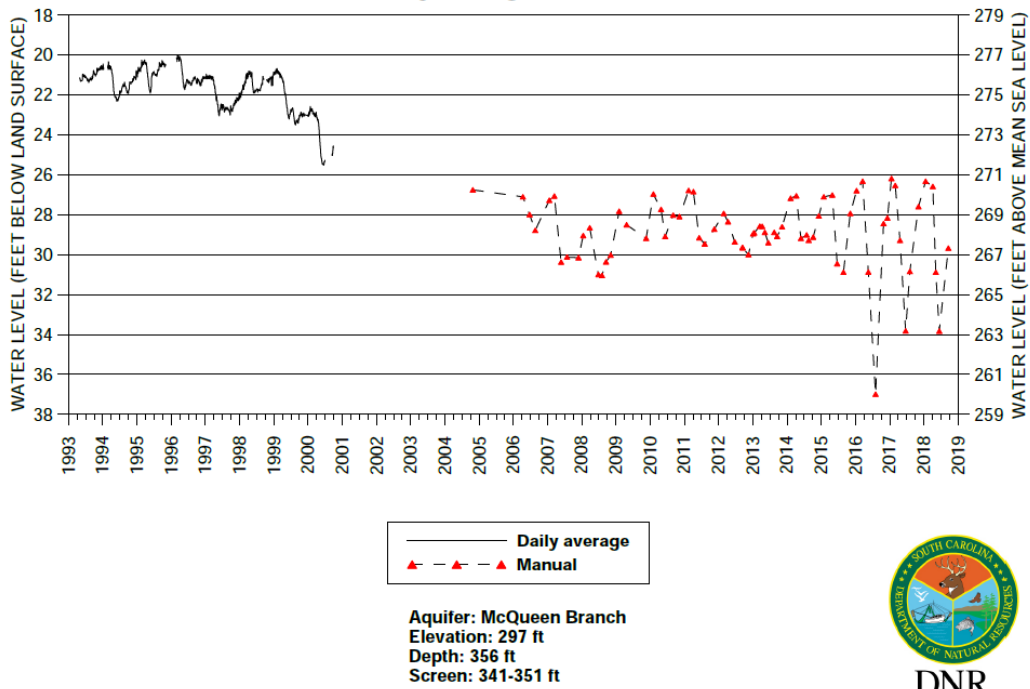
**AIK-0824 (C-2) Daily Average and Manual Water Levels**



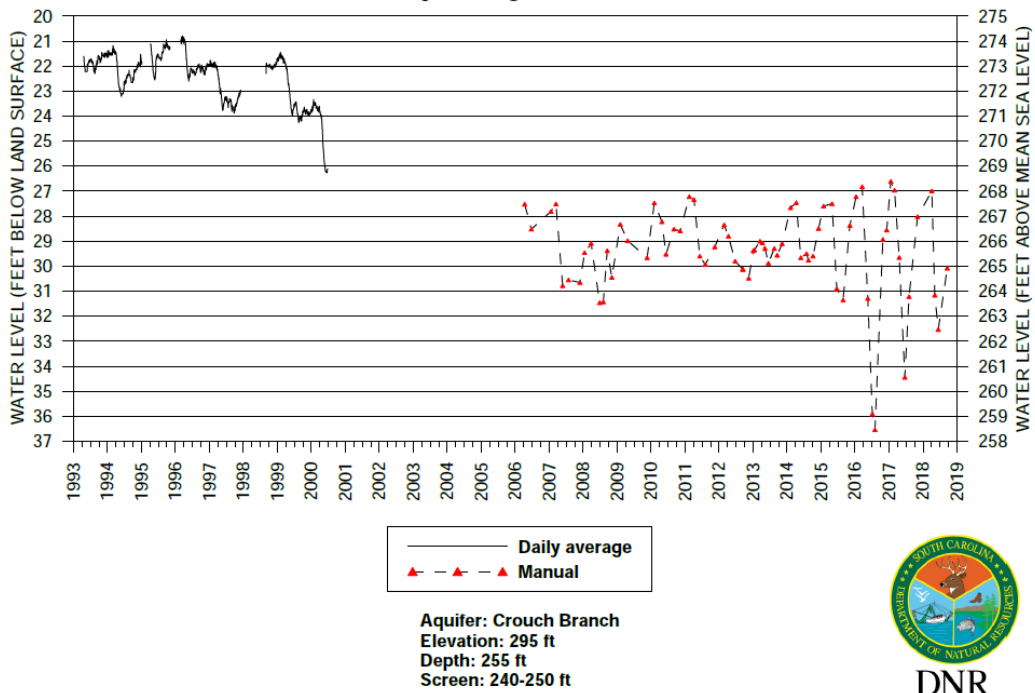
**AIK-0826 (C3) Daily Average and Manual Water Levels**

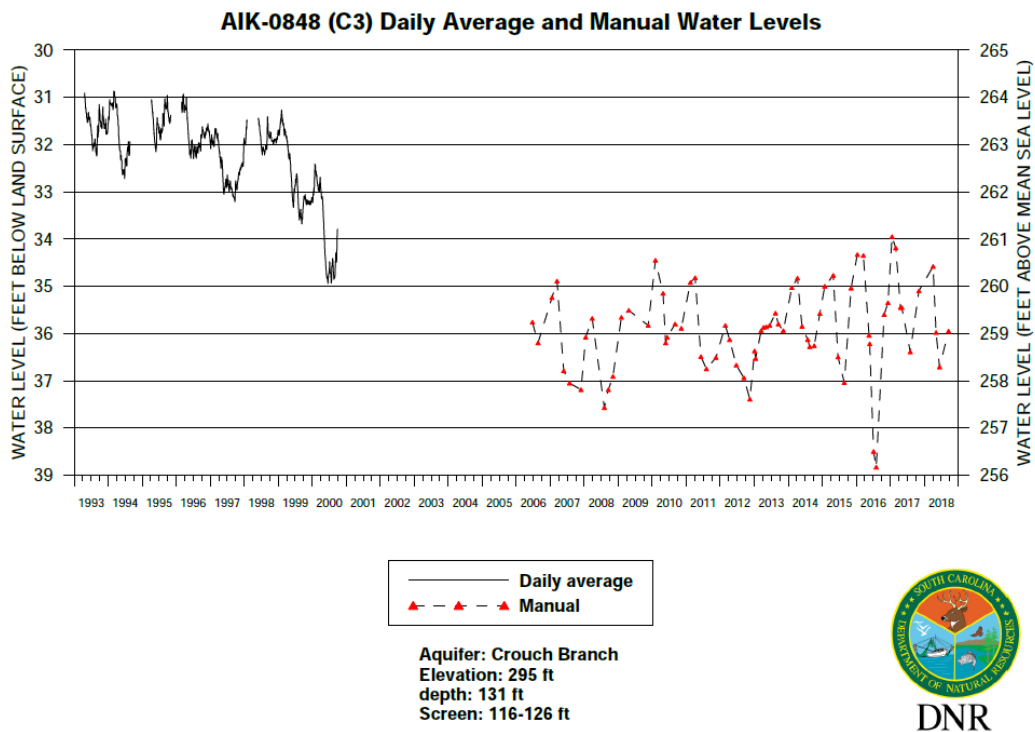
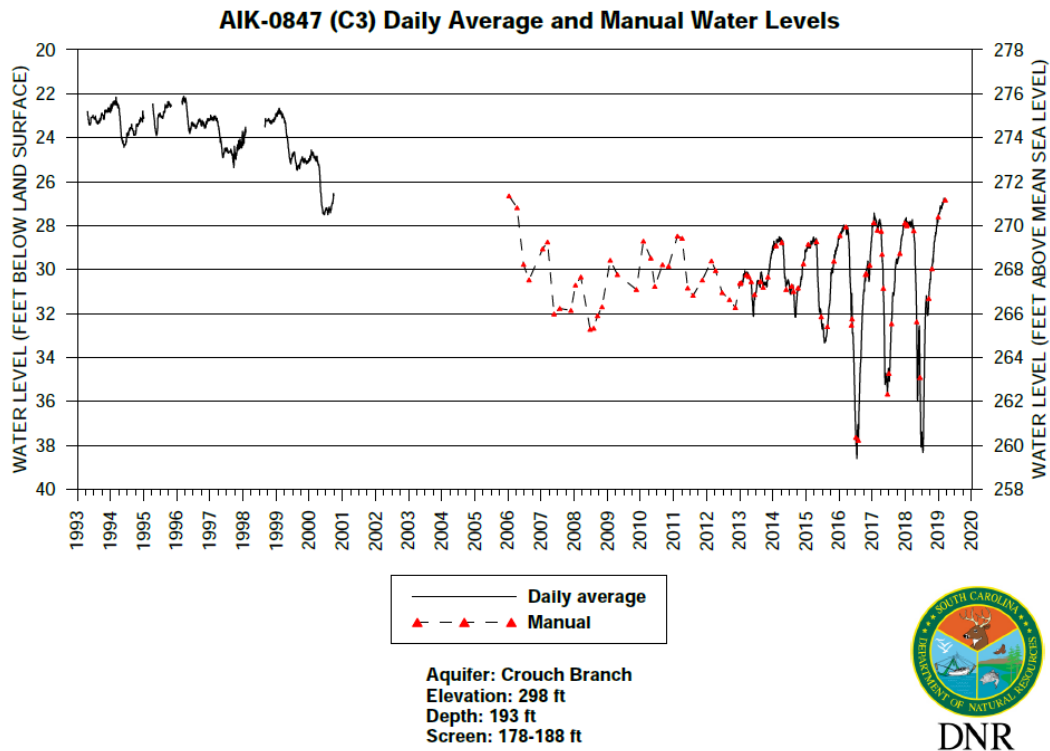


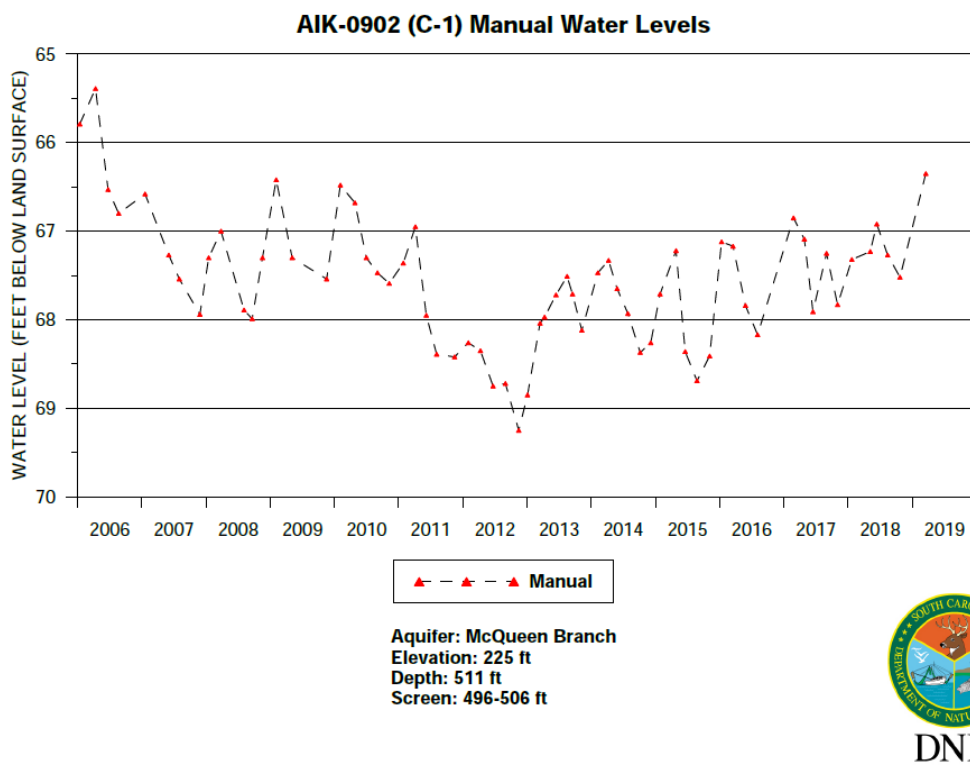
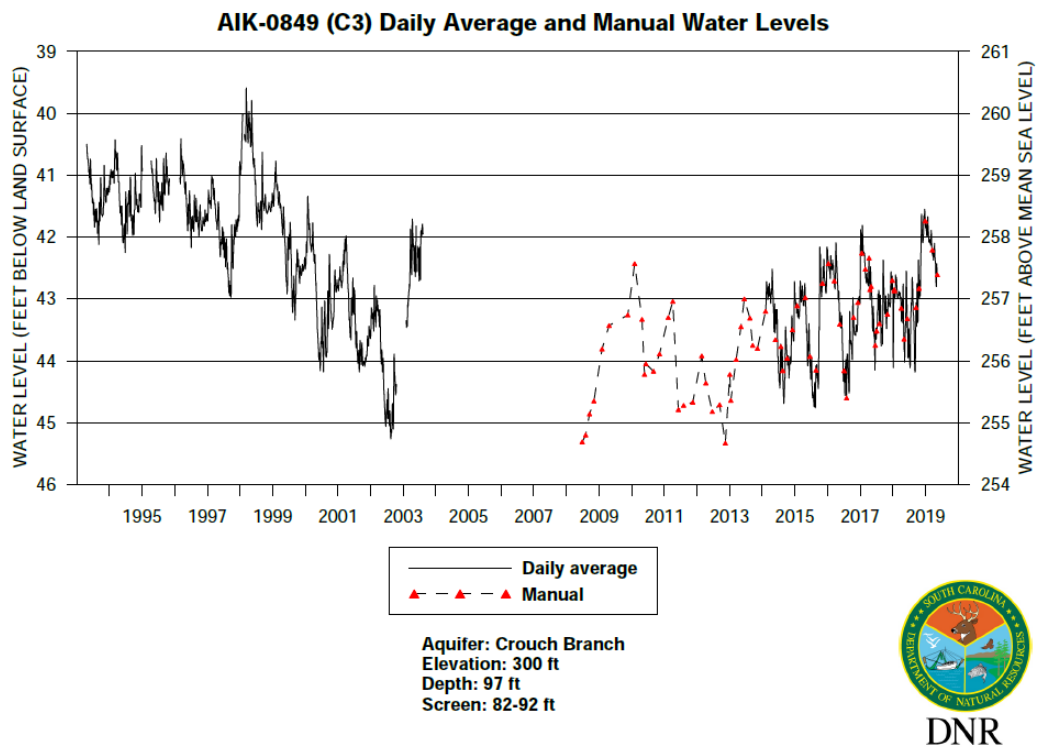
**AIK-0845 (C3) Daily Average and Manual Water Levels**



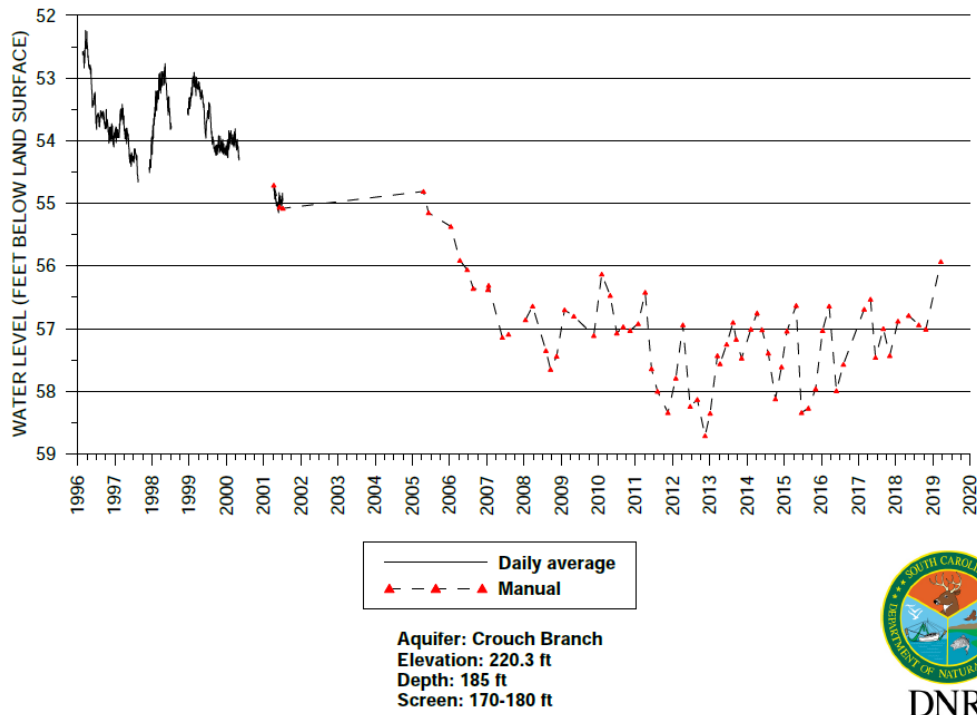
**AIK-0846 (C3) Daily Average and Manual Water Levels**



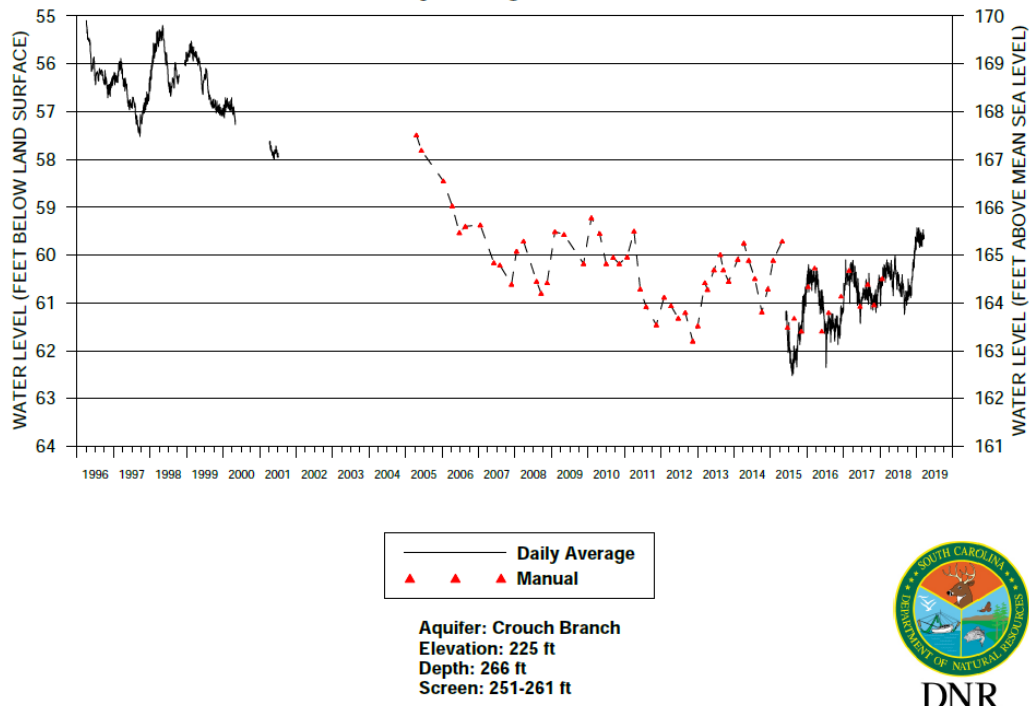




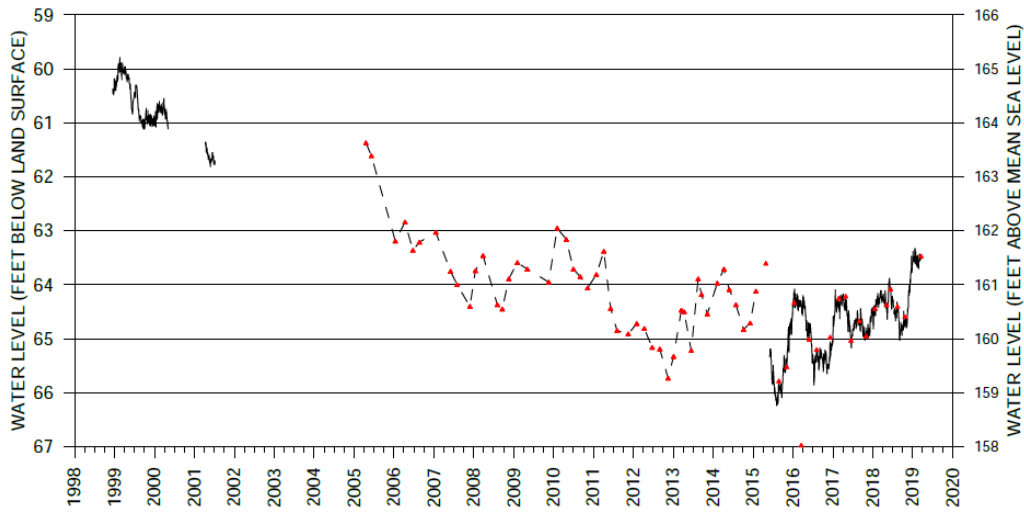
**AIK-2378 (C1) Daily Average and Manual Water Levels**



**AIK-2379 (C1) Daily Average and Manual Water Levels**



**AIK-2380 (C1) Daily Average and Manual Water Levels**

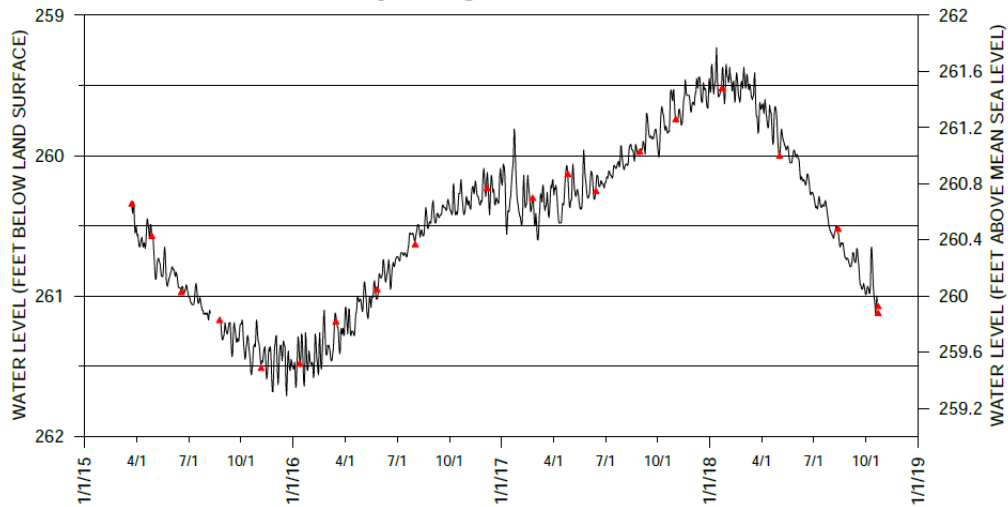


— Daily average  
▲ — Manual

Aquifer: McQueen Branch  
Elevation: 225 ft  
Depth: 385 ft  
Screen: 370-380 ft



**AIK-2449 Daily Average and Manual Water Levels**

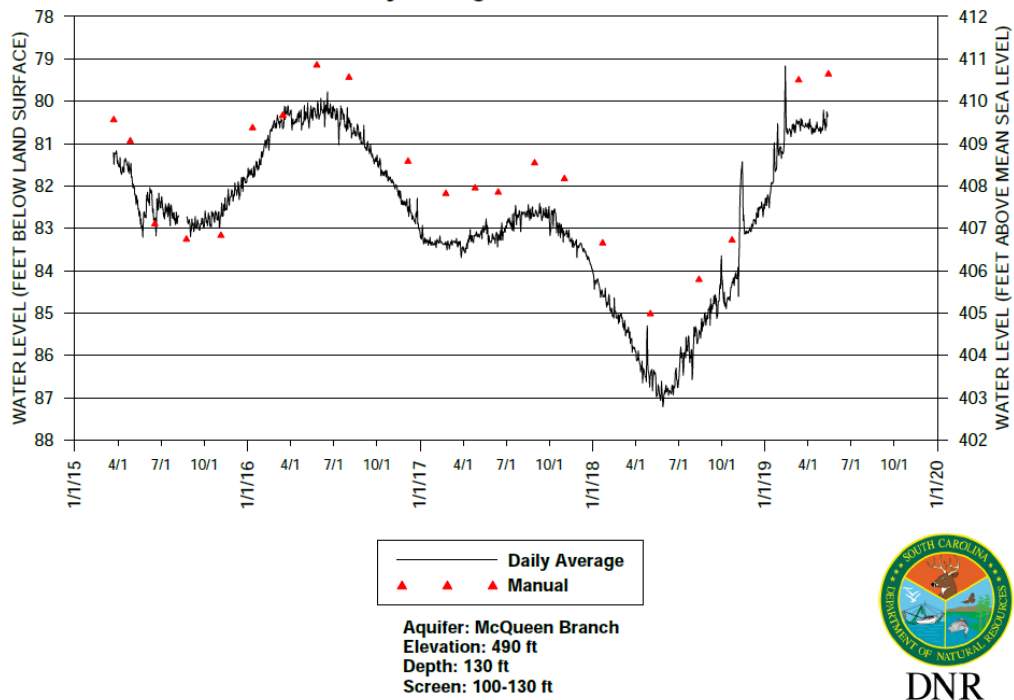


— Daily Average  
▲ — Manual

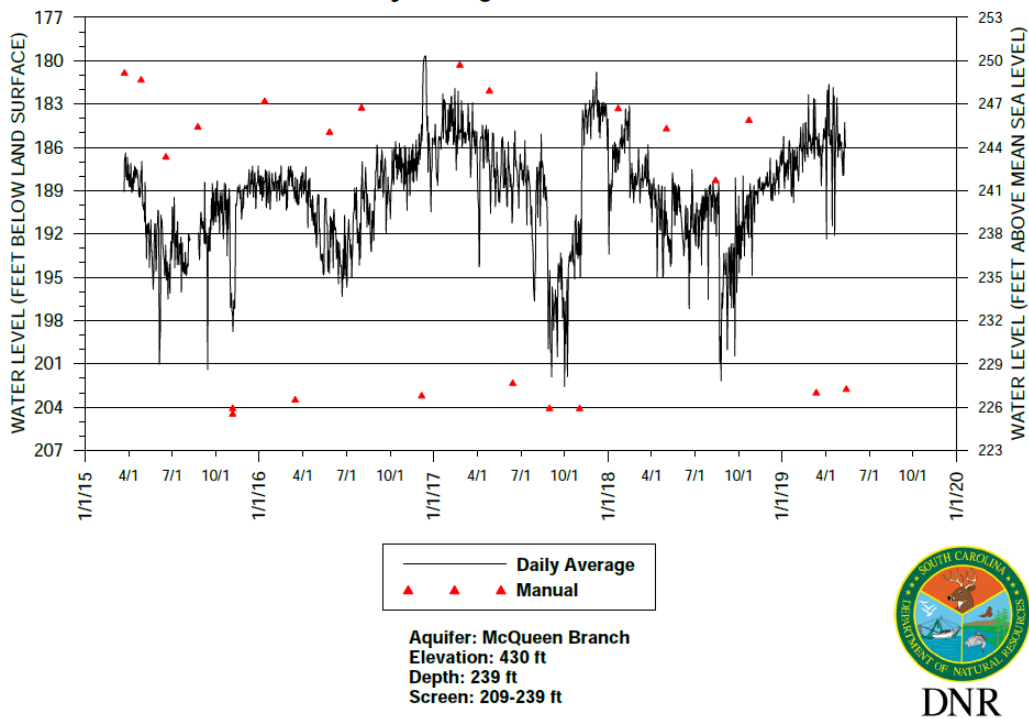
Aquifer: McQueen Branch  
Elevation: 494 ft  
Depth: 309 ft  
Screen: 289-309 ft



**AIK-2544 Daily Average and Manual Water Levels**

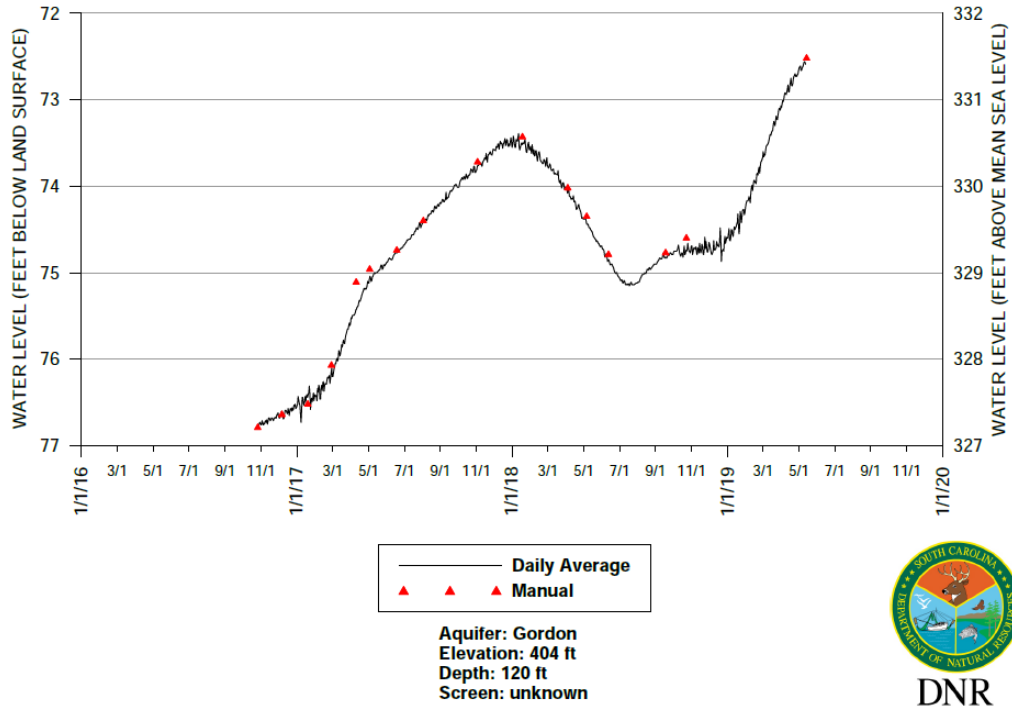


**AIK-2711 Daily Average and Manual Water Levels**

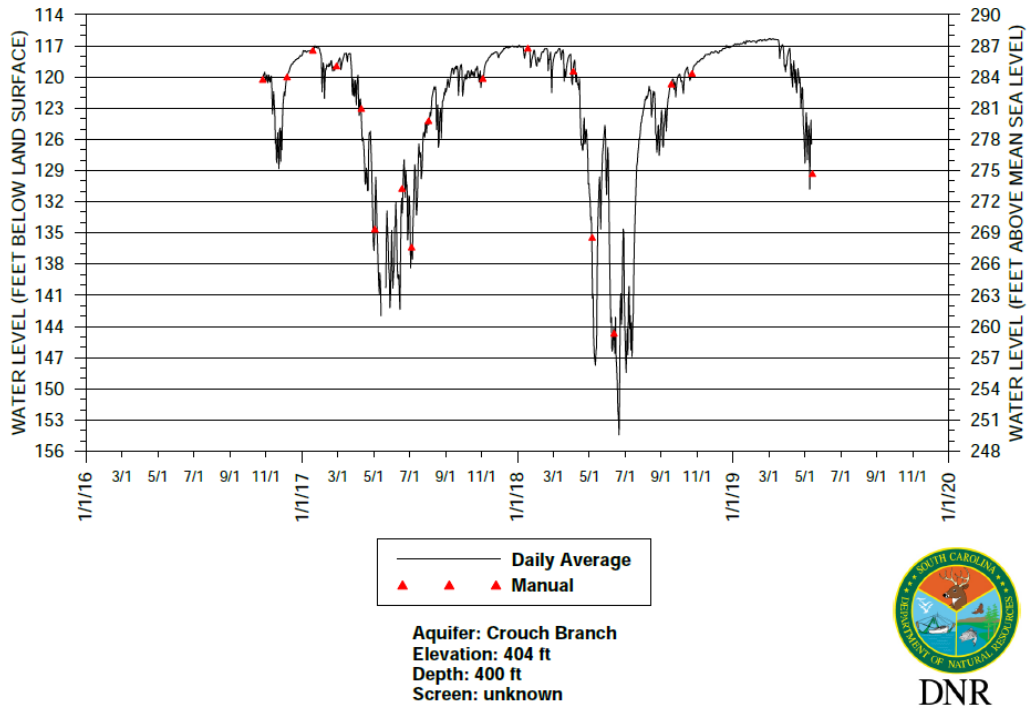


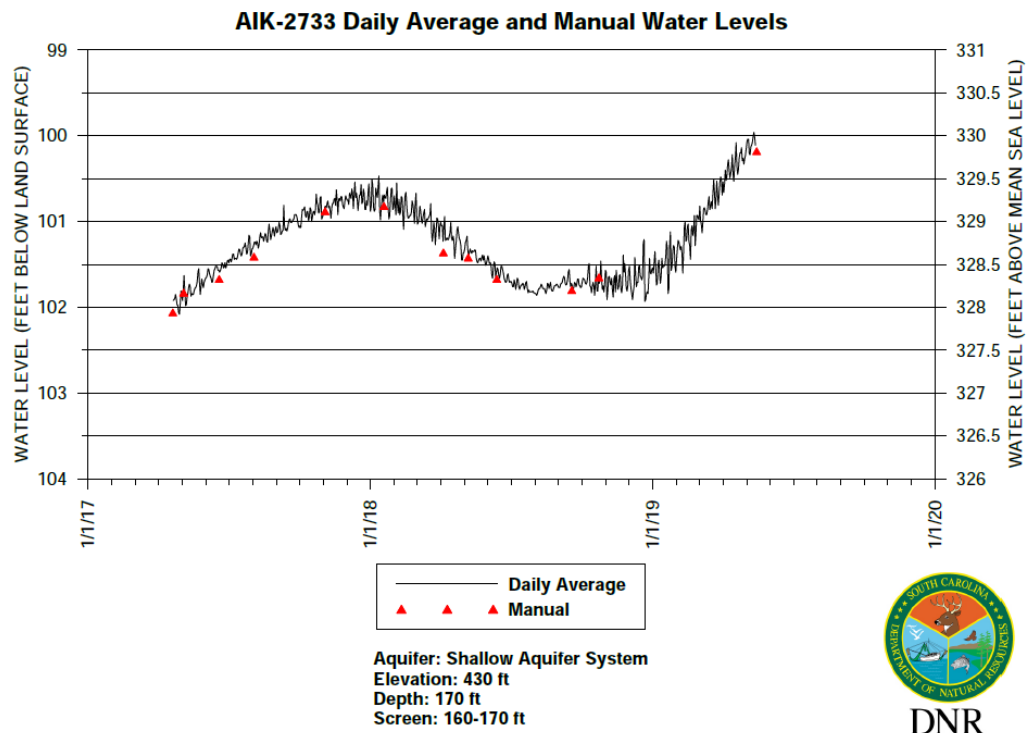


**AIK-2731 Daily Average and Manual Water Levels**

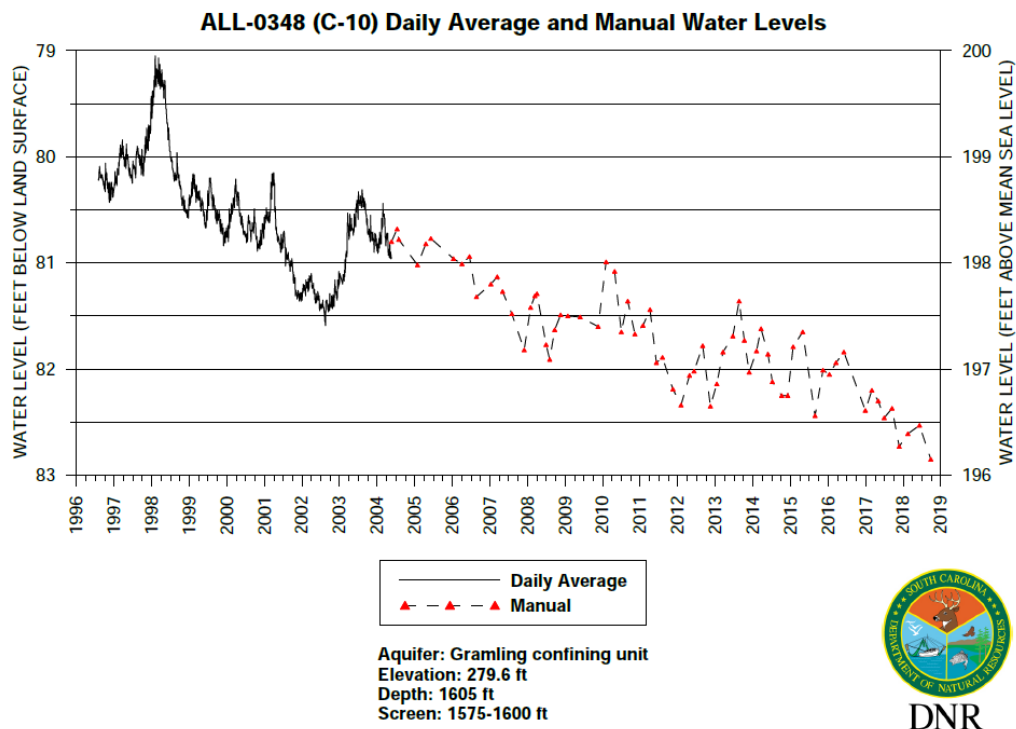
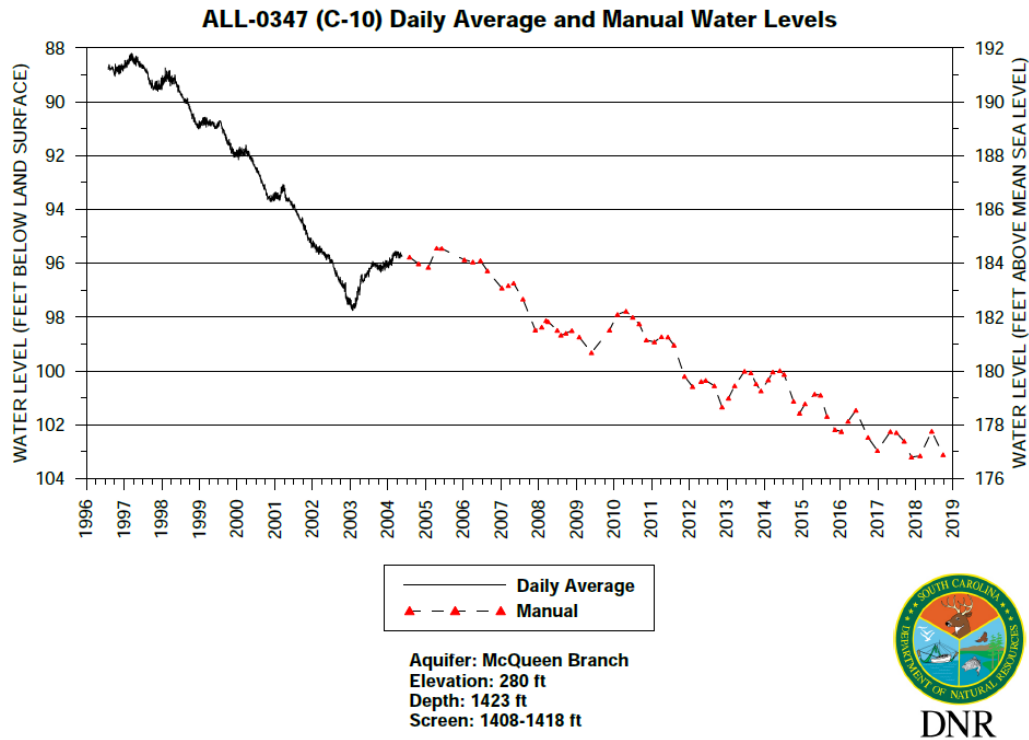


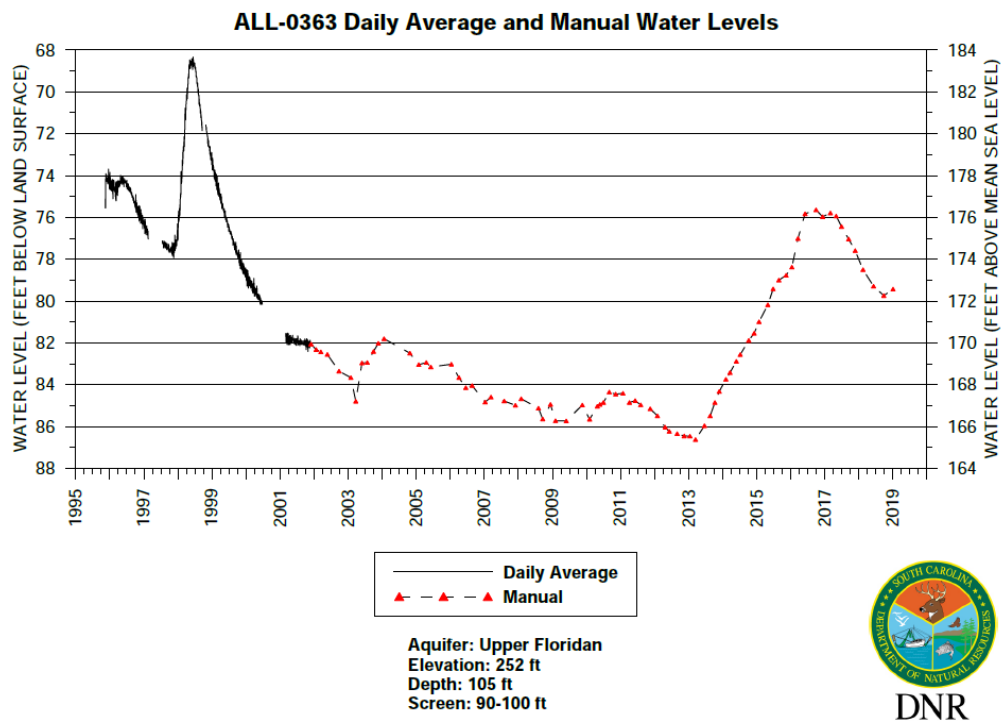
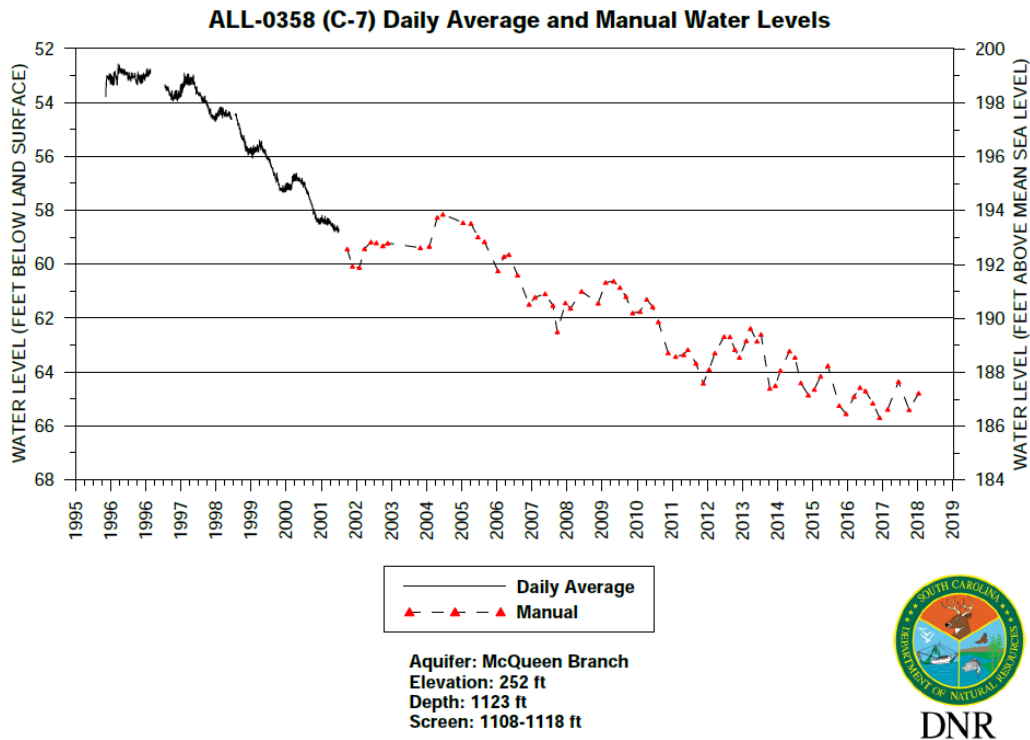
**AIK-2732 Daily Average and Manual Water Levels**

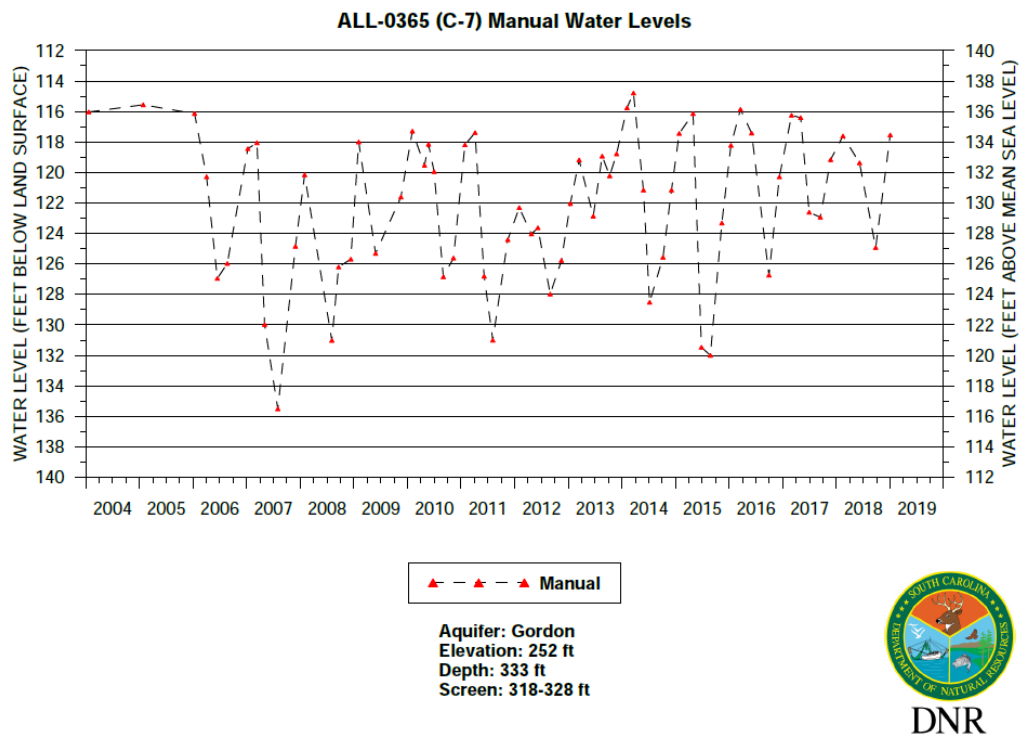
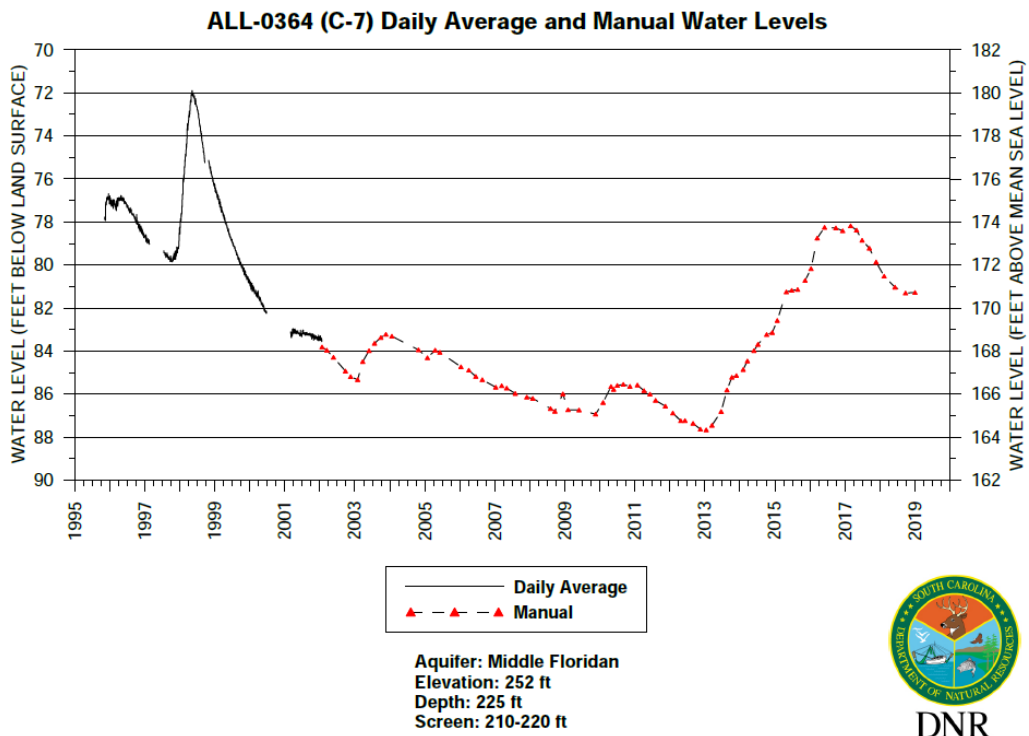


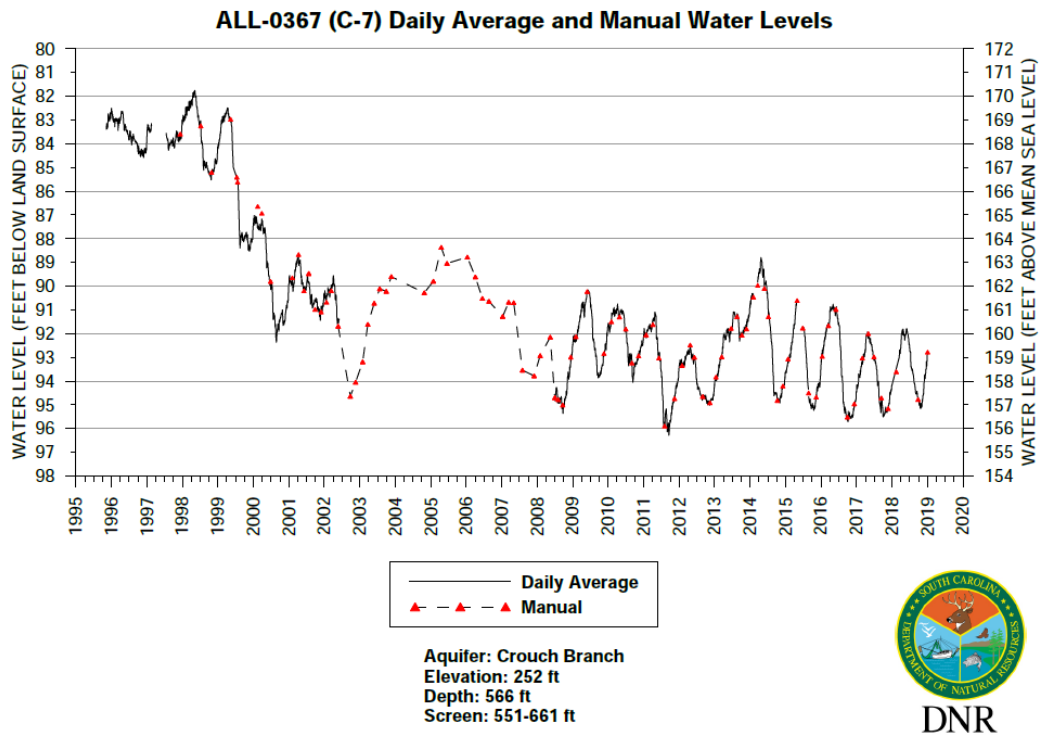
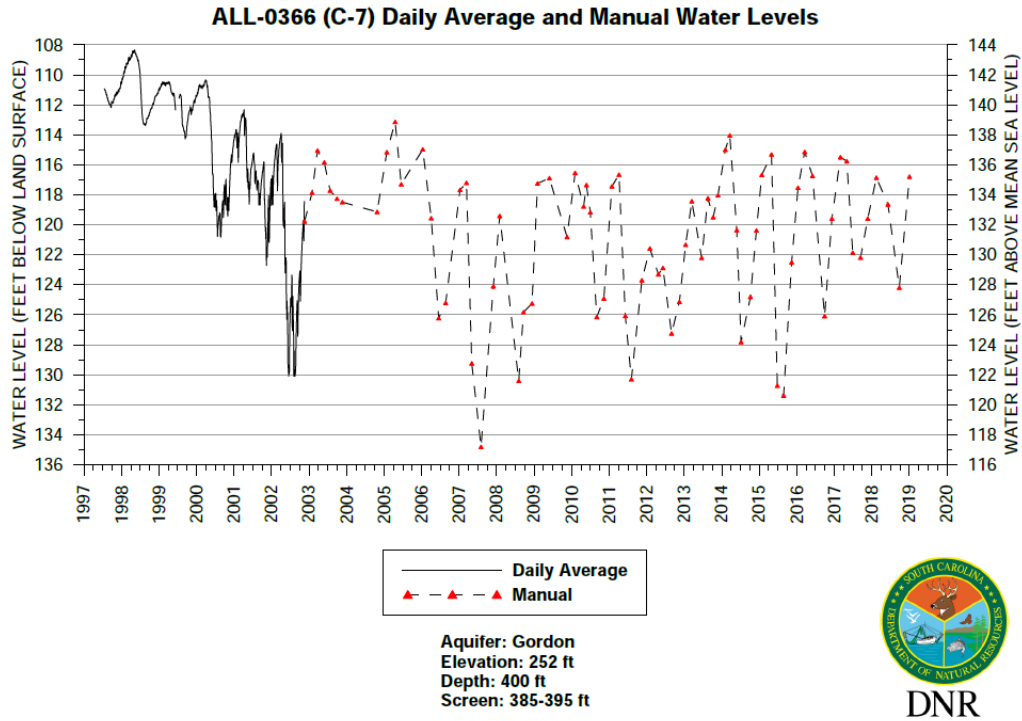


## Allendale County

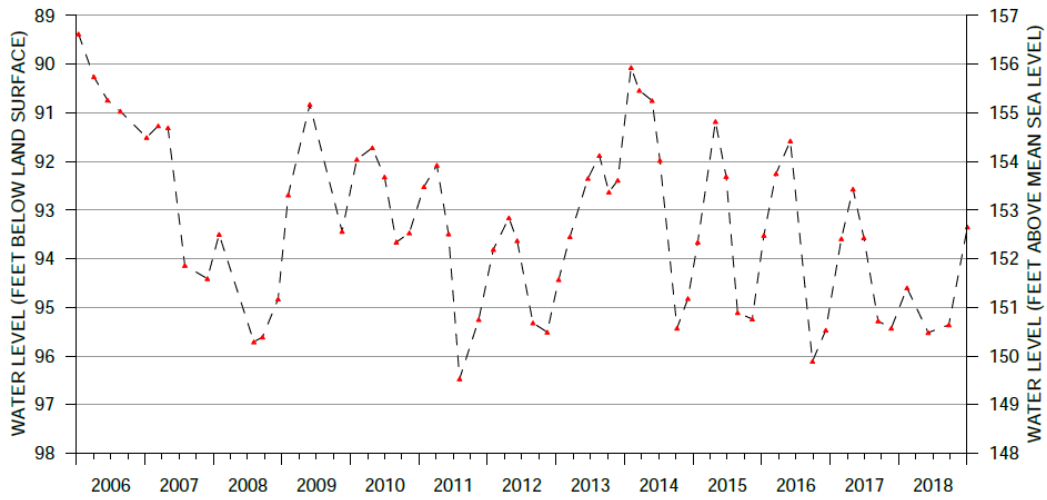








**ALL-0368 (C-7) Manual Water Levels**

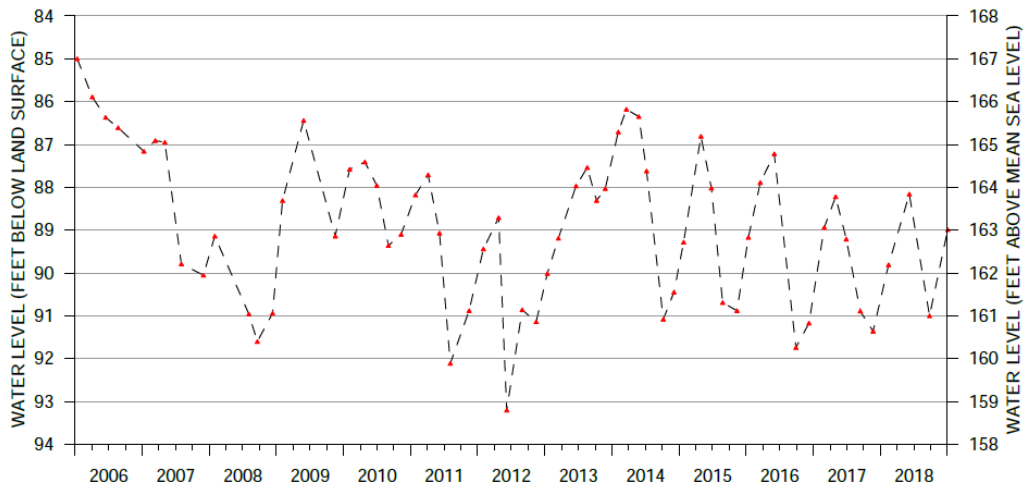


▲ - - ▲ - - Manual

**Aquifer: Crouch Branch**  
**Elevation: 246.6 ft**  
**Depth: 691 ft**  
**Screen: 676-686 ft**



**ALL-0369 (C-7) Manual Water Levels**

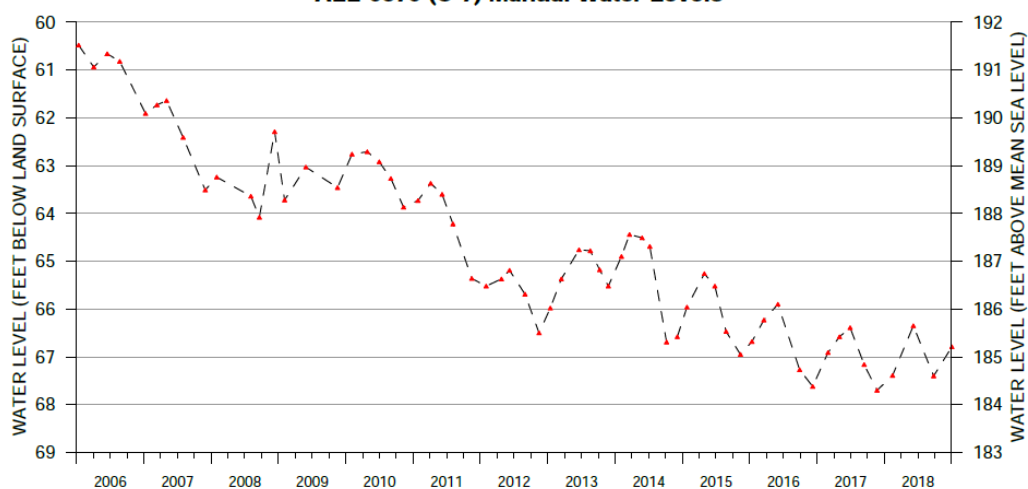


▲ - - ▲ - - Manual

**Aquifer: Crouch Branch**  
**Elevation: 252 ft**  
**Depth: 800 ft**  
**Screen: 785-795 ft**



**ALL-0370 (C-7) Manual Water Levels**

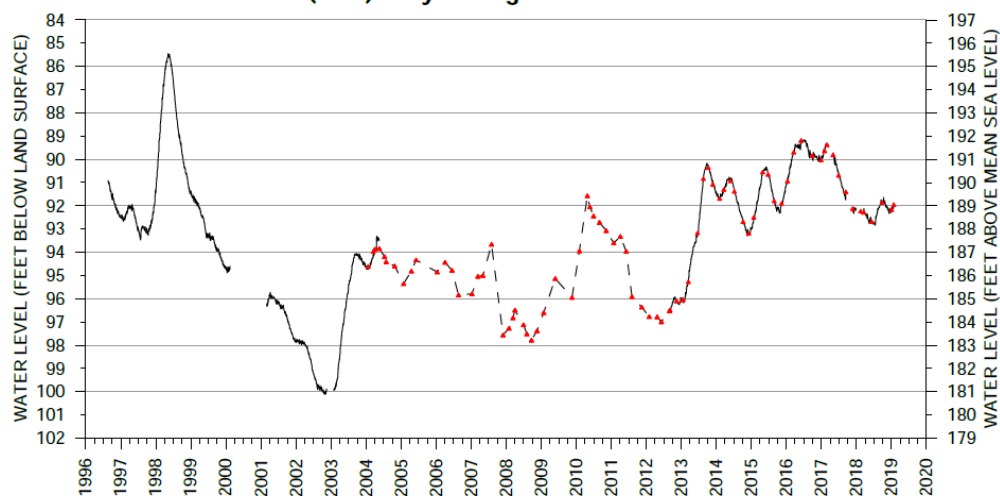


▲ - - ▲ Manual

**Aquifer: McQueen Branch**  
**Elevation: 252 ft**  
**Depth: 975 ft**  
**Screen: 960-970 ft**



**ALL-0371 (C-10) Daily Average and Manual Water Levels**

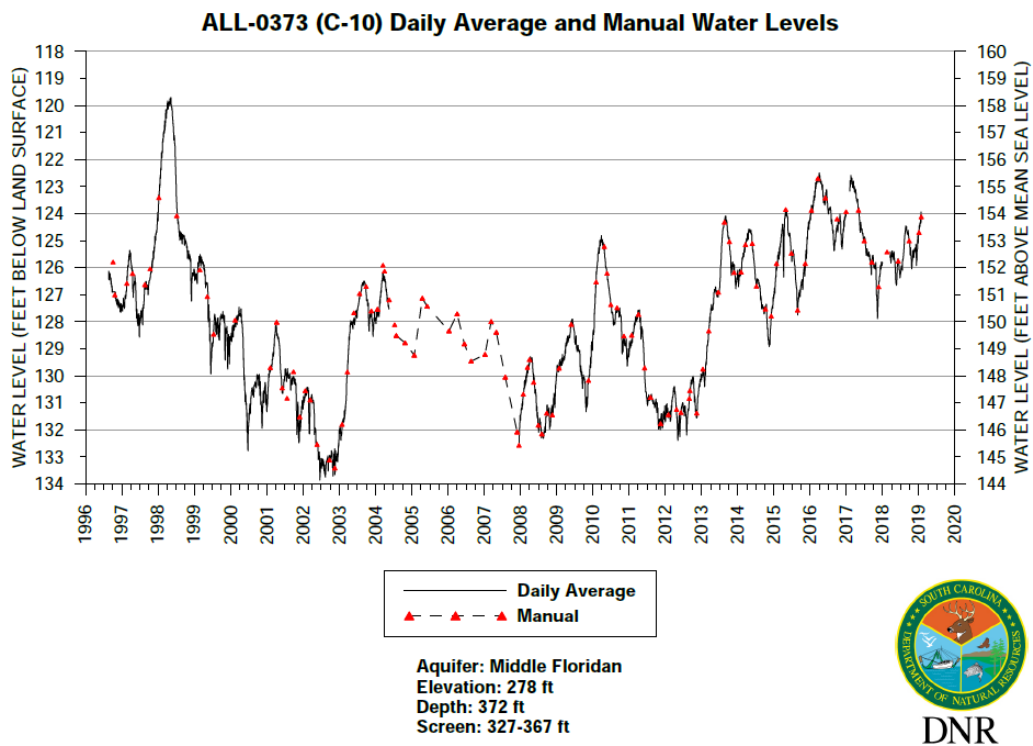
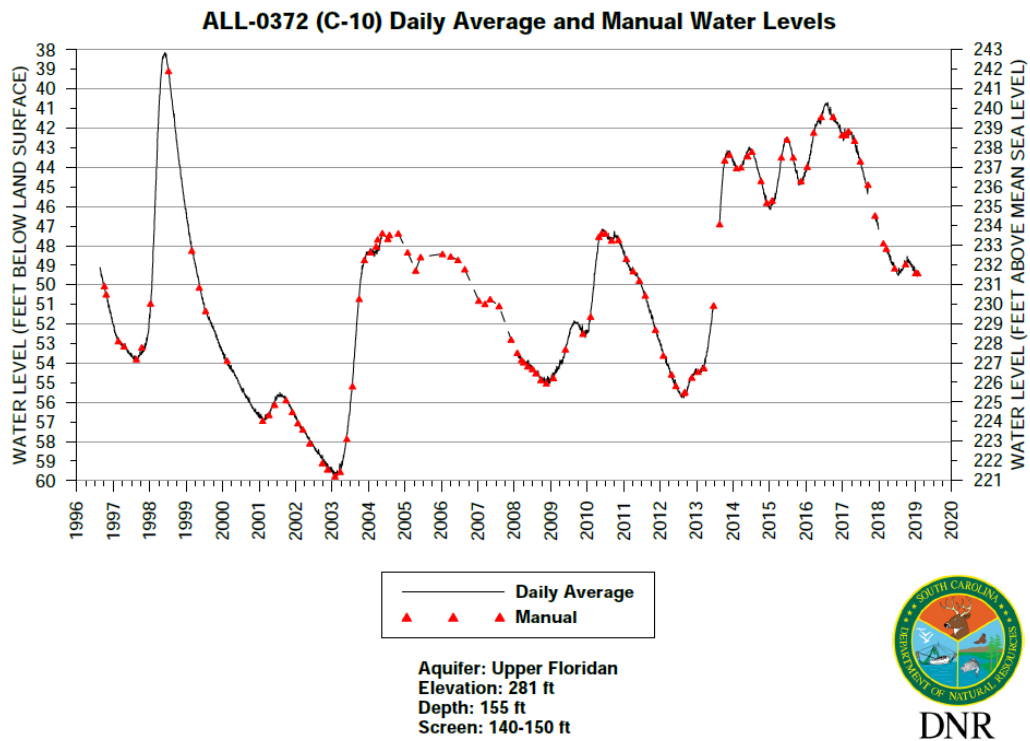


— Daily Average  
 ▲ - - ▲ Manual

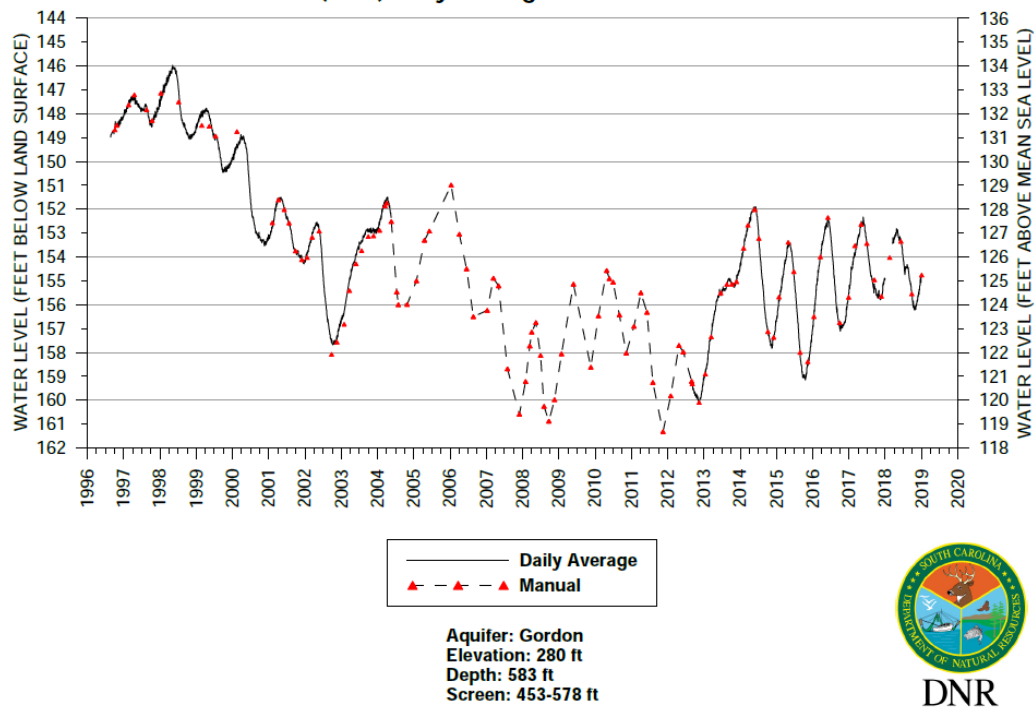
**Aquifer: Upper Floridan**  
**Elevation: 281 ft**  
**Depth: 217 ft**  
**Screen: 192-212 ft**



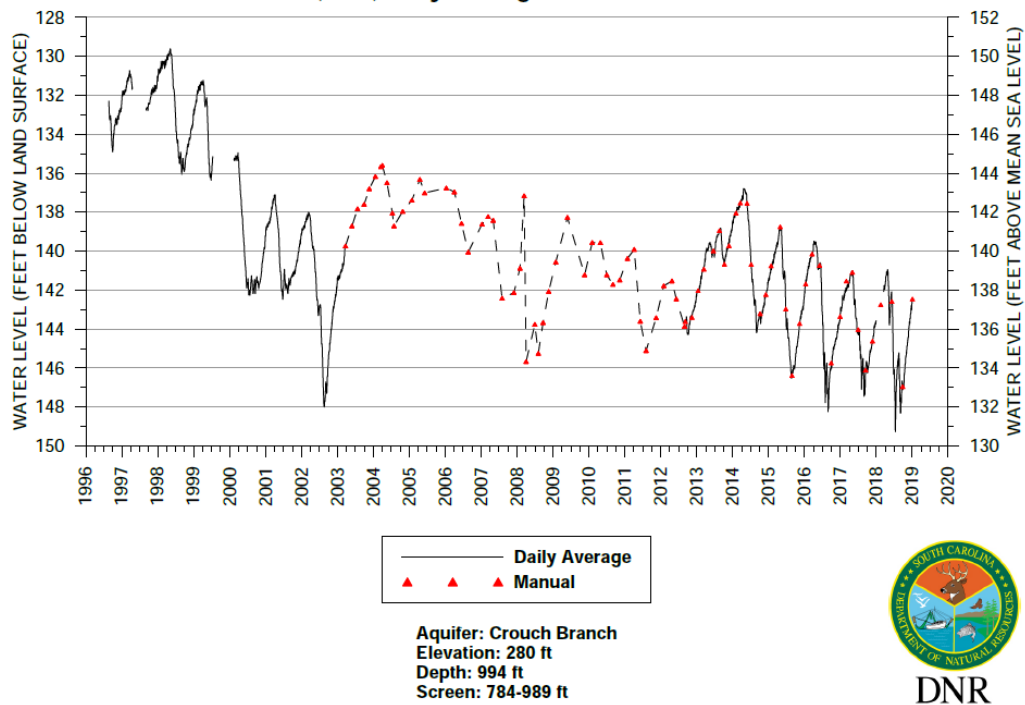




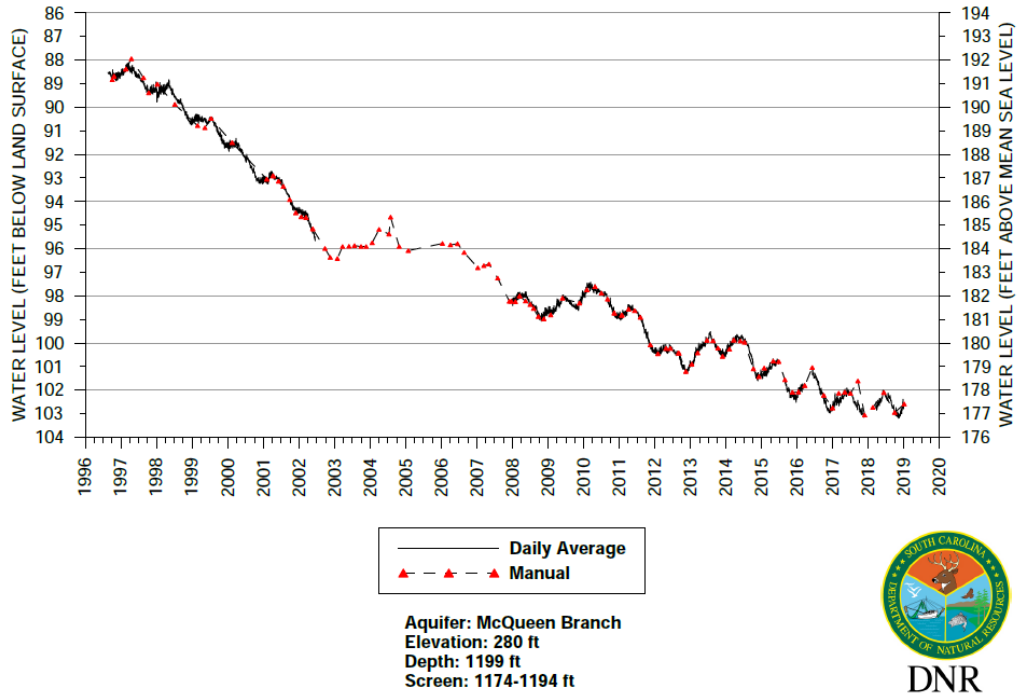
**ALL-0375 (C-10) Daily Average and Manual Water Levels**



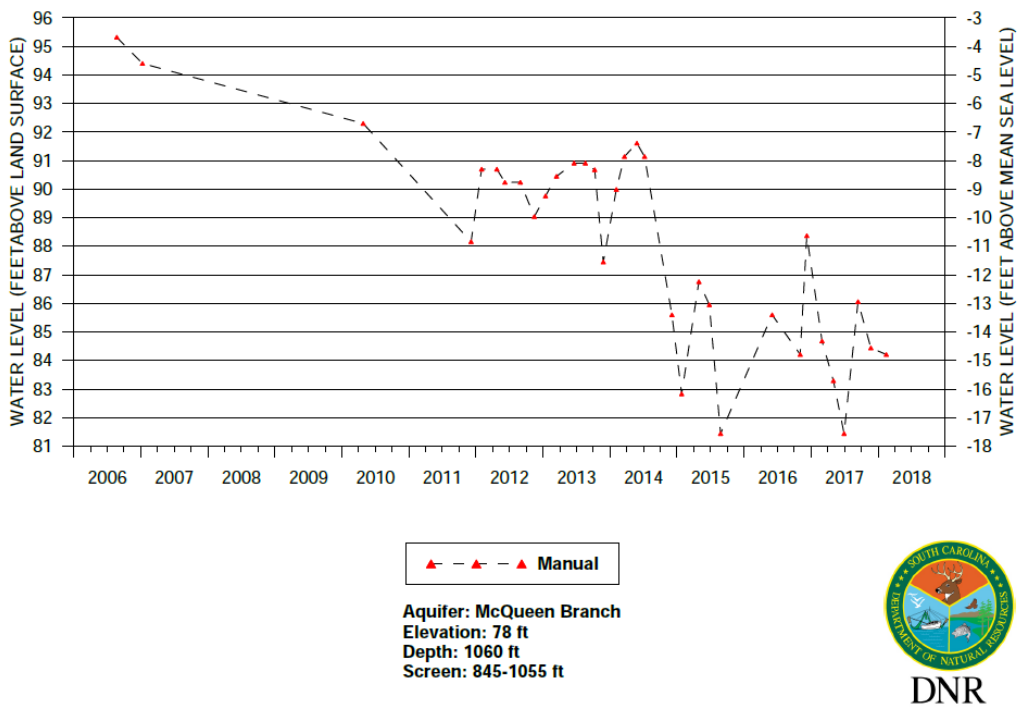
**ALL-0376 (C-10) Daily Average and Manual Water Levels**



**ALL-0377 (C-10) Daily Average and Manual Water Levels**

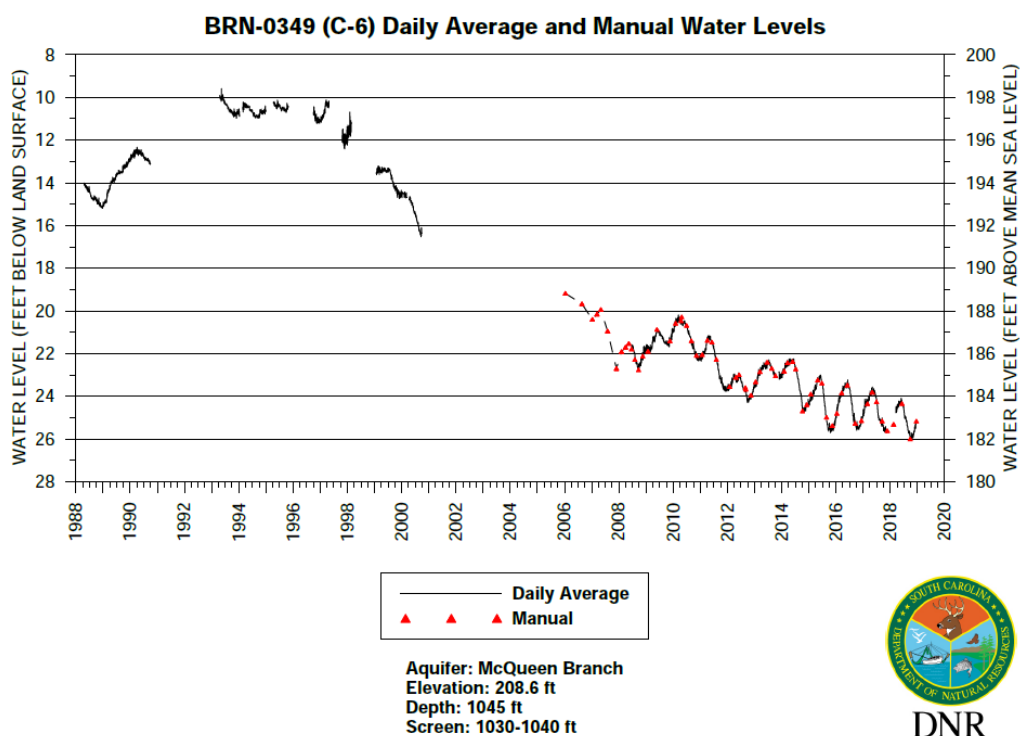
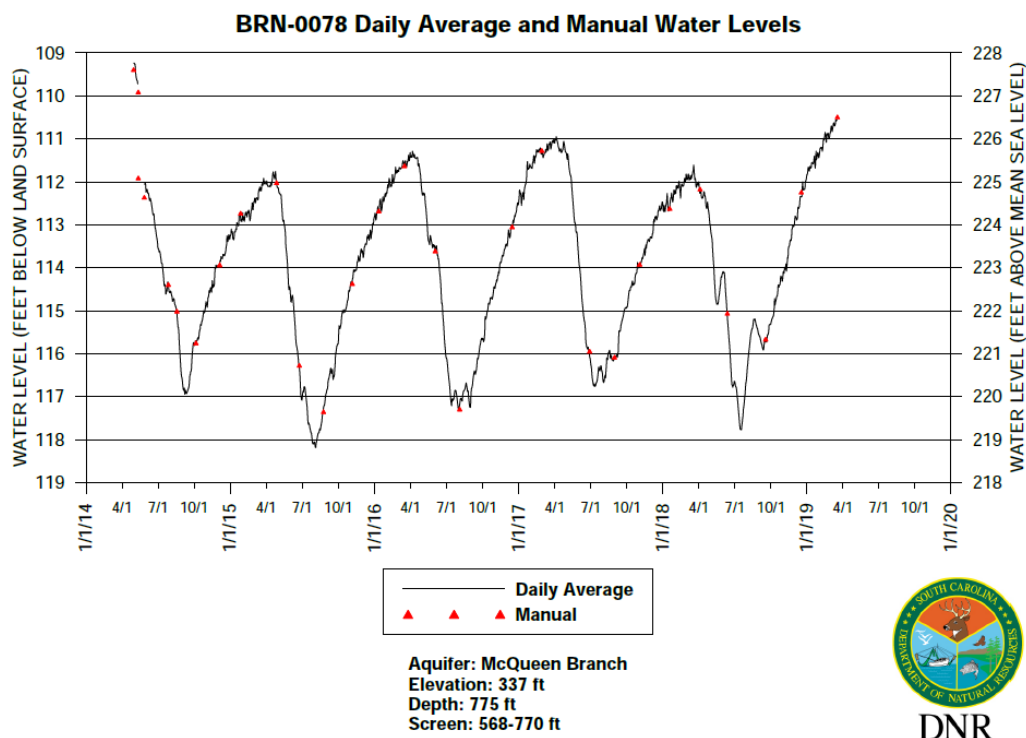


**ALL-0378 Manual Water Levels**

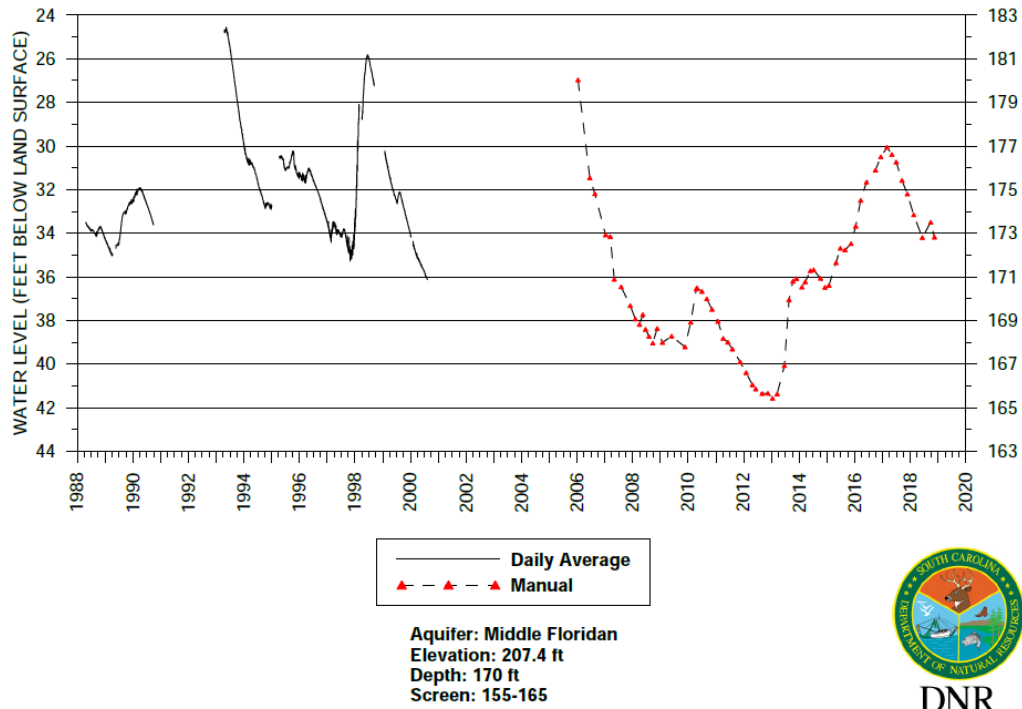


## Barnwell County

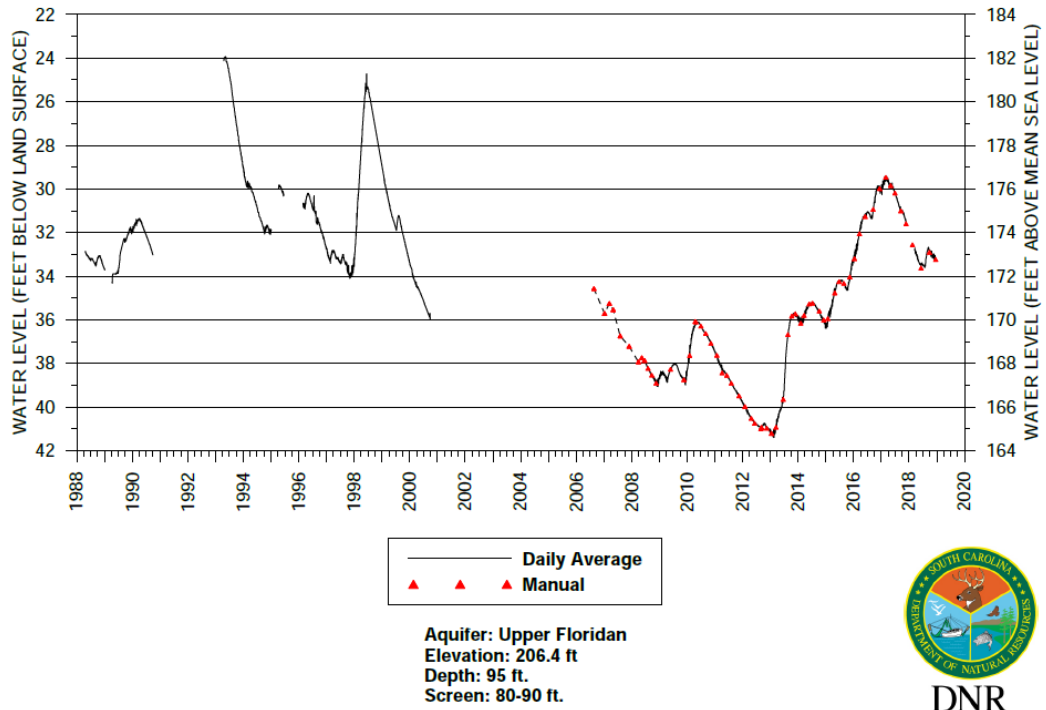
Note: There are no wells in the SC DNR Groundwater Monitoring Network in Bamberg county.

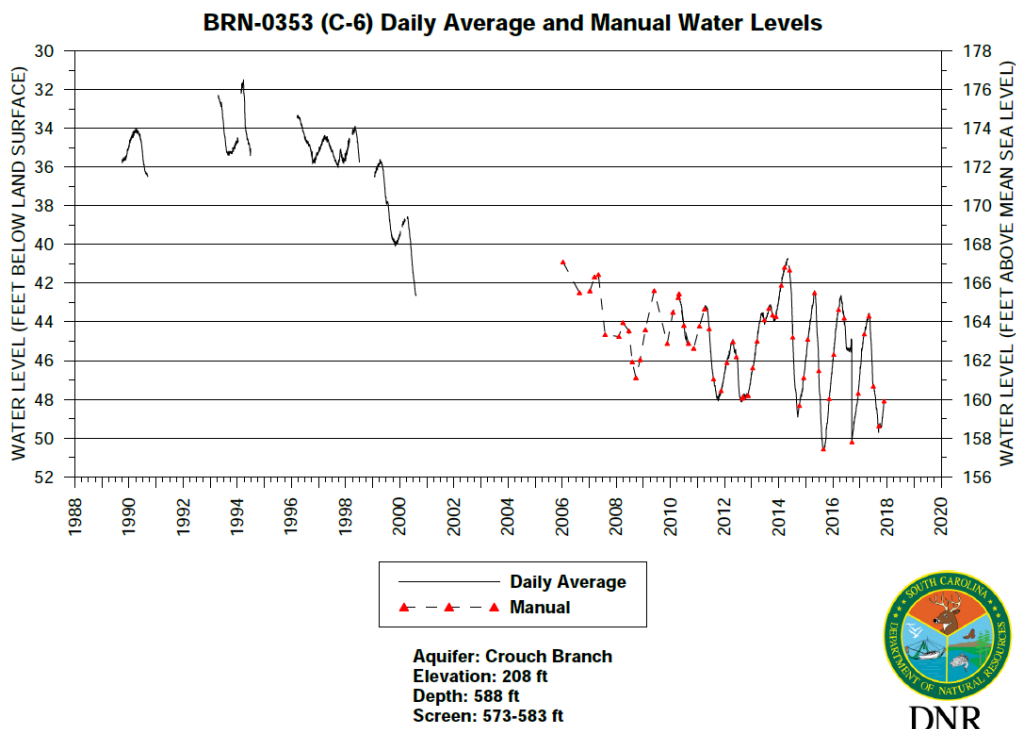
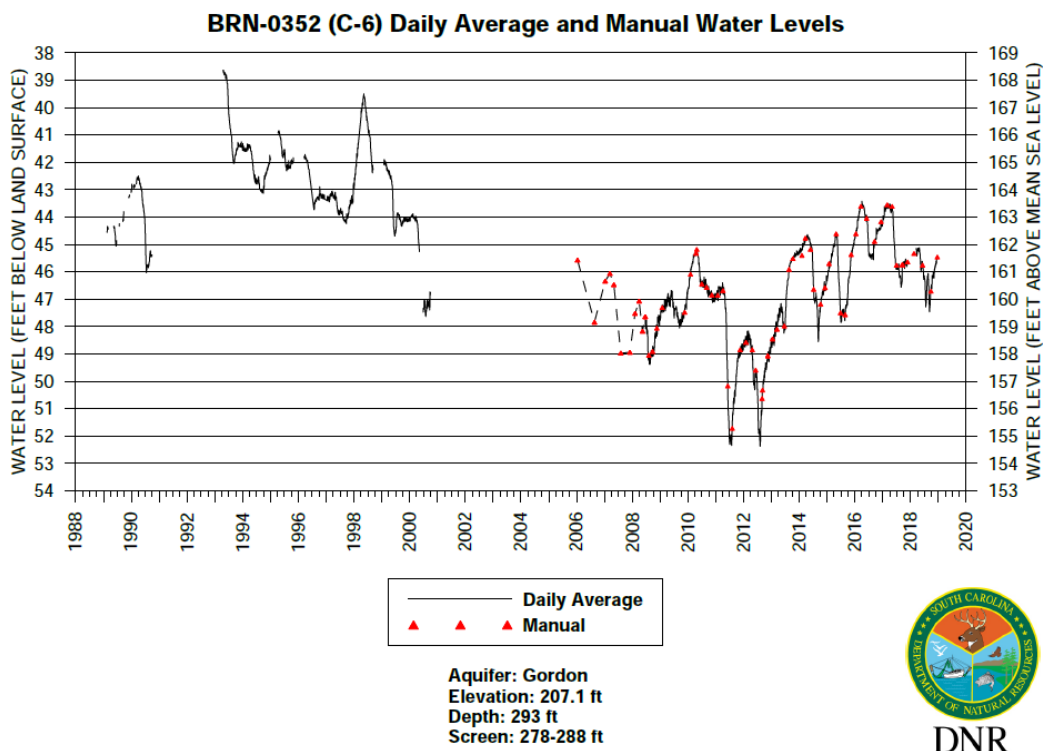


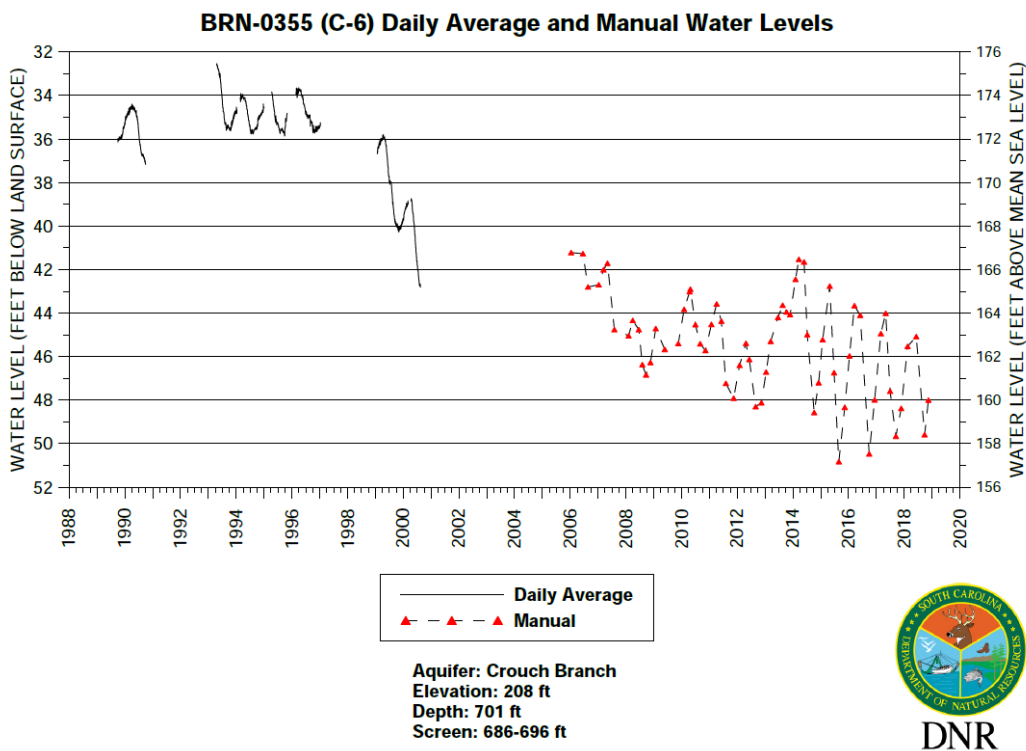
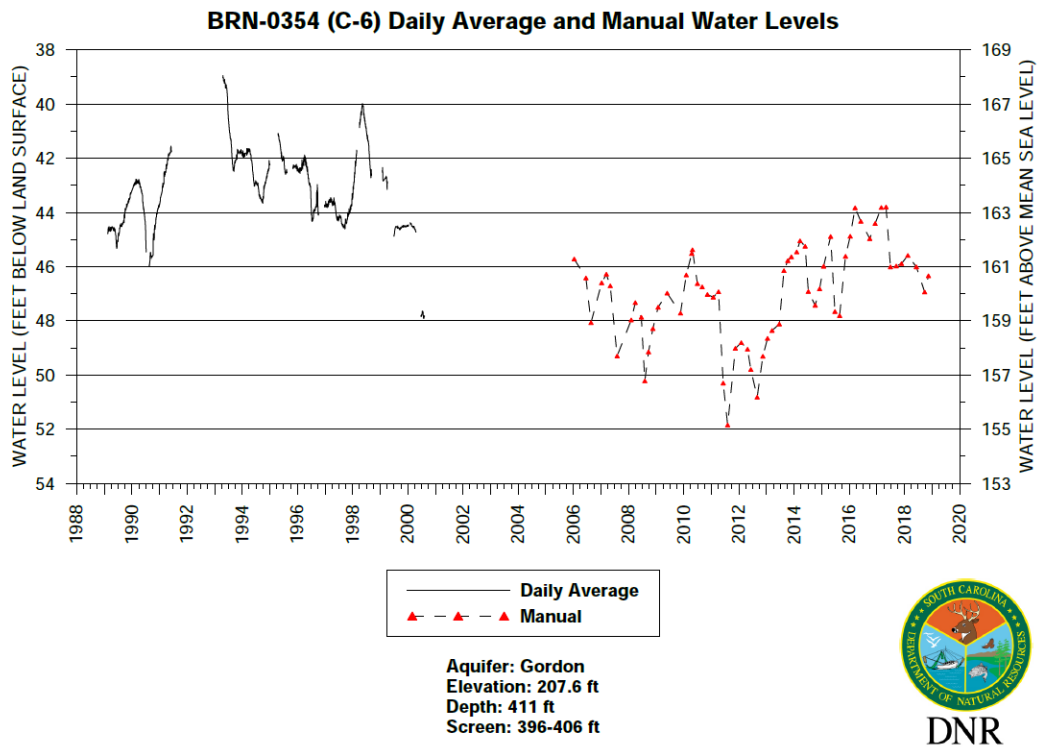
**BRN-0350 (C-6) Daily Average and Manual Water Levels**

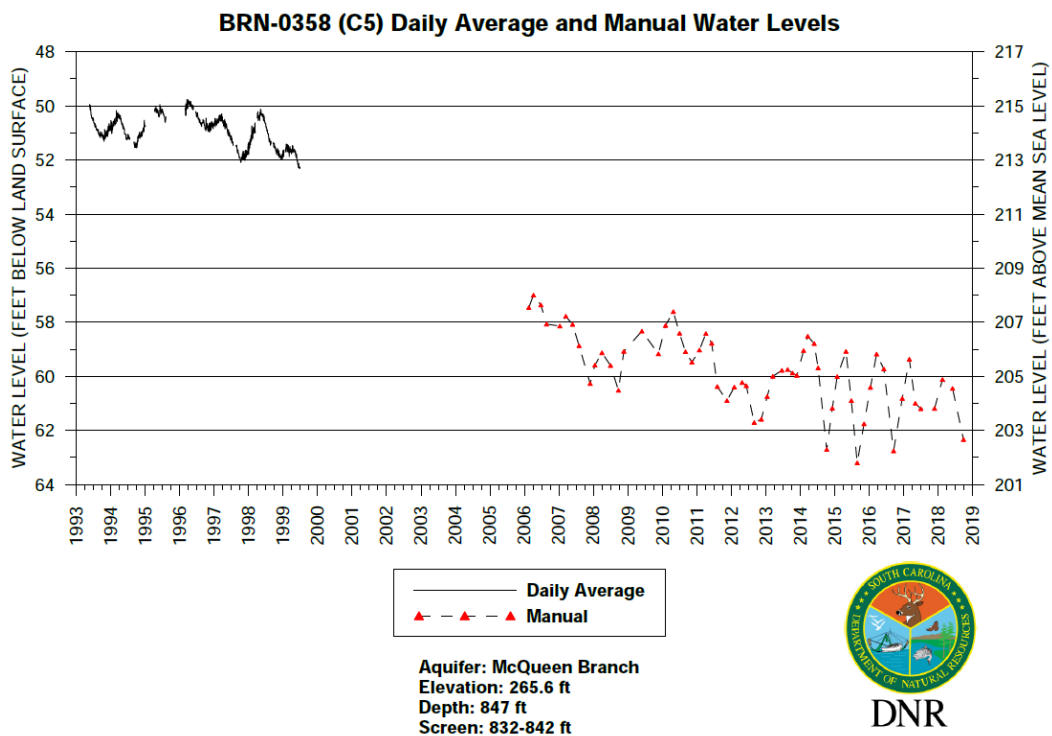
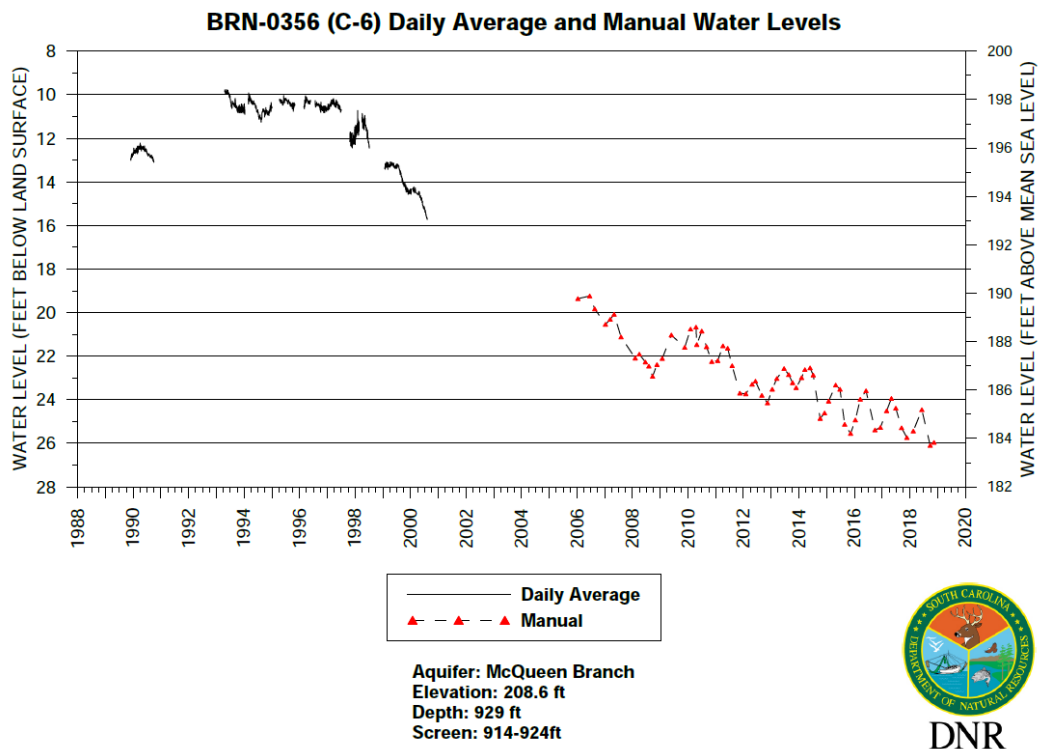


**BRN-0351 (C-6) Daily Average and Manual Water Levels**

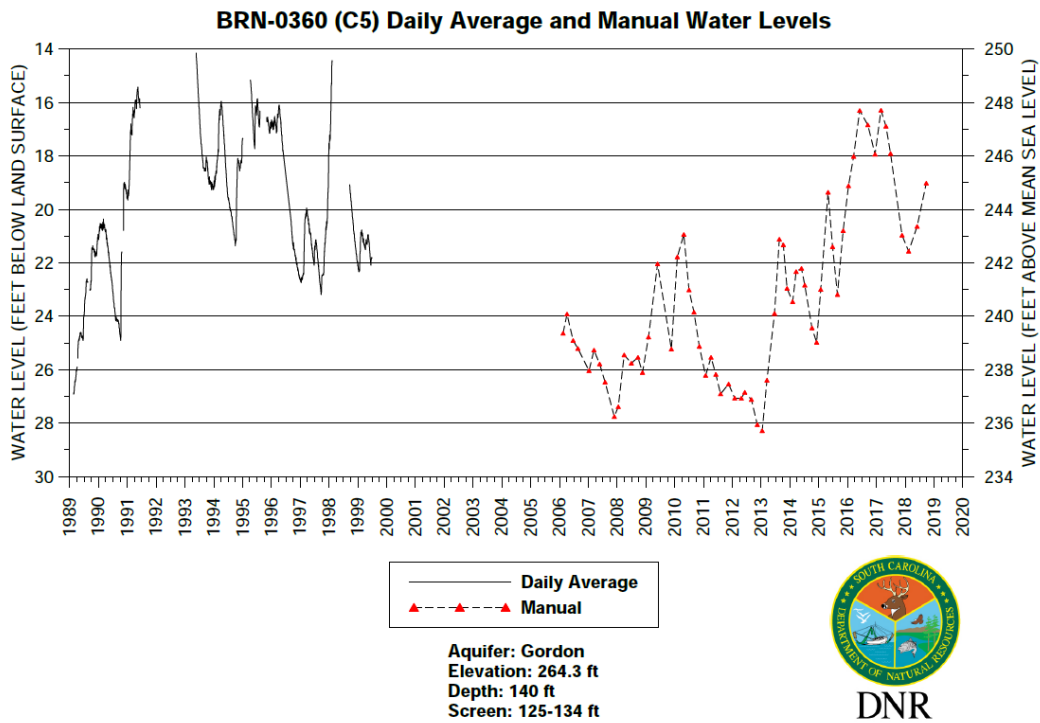
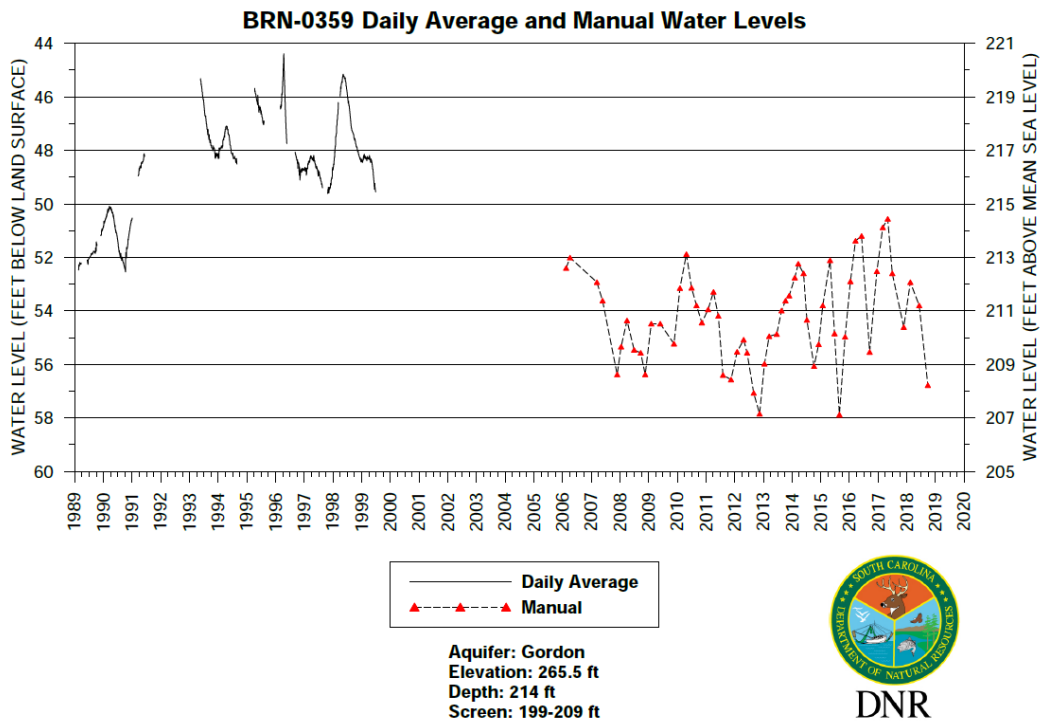


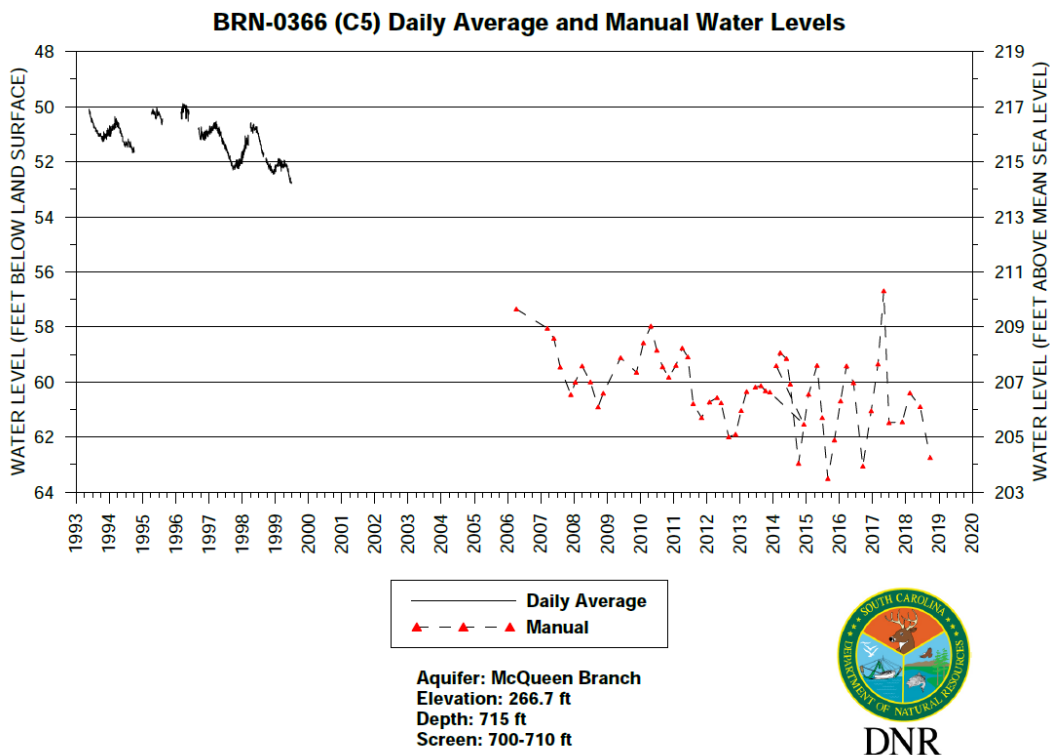
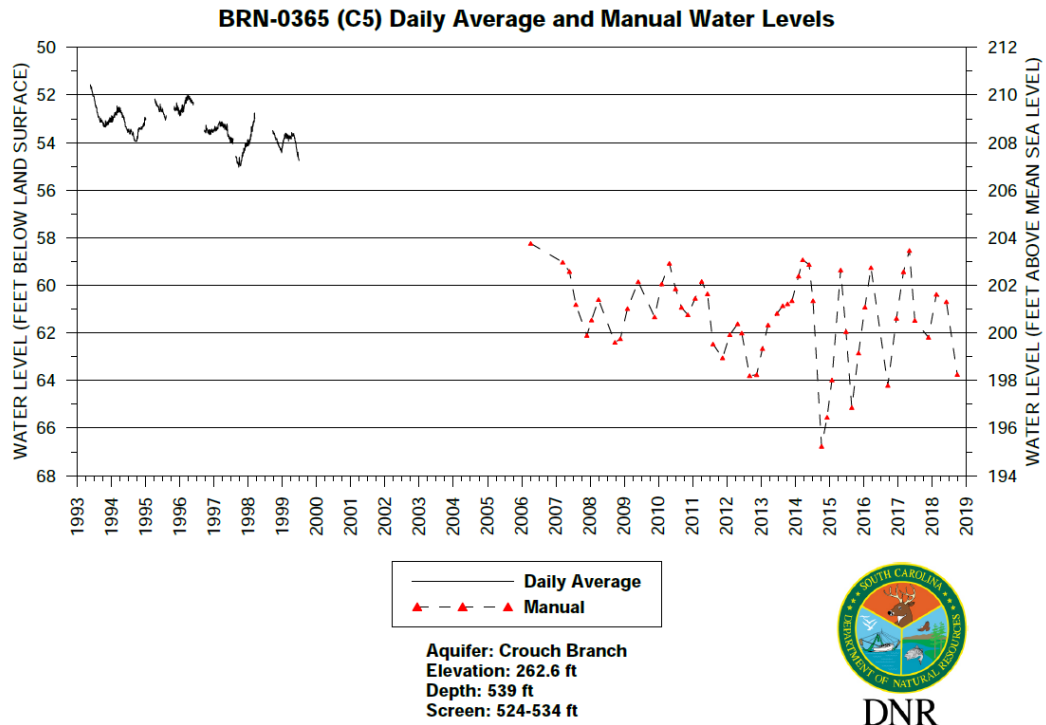




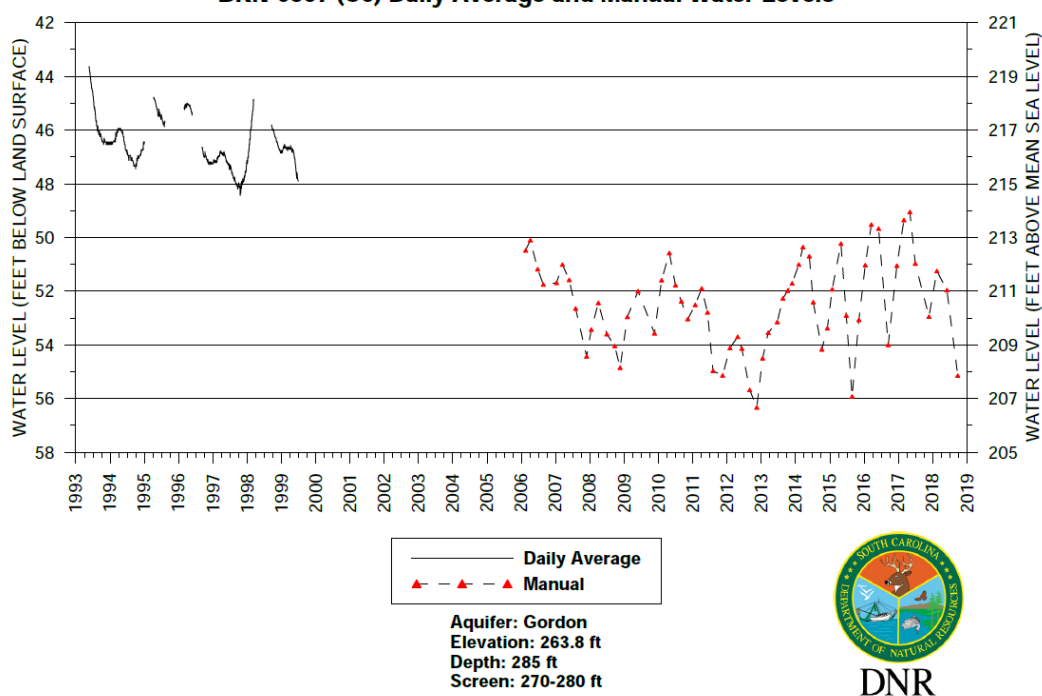




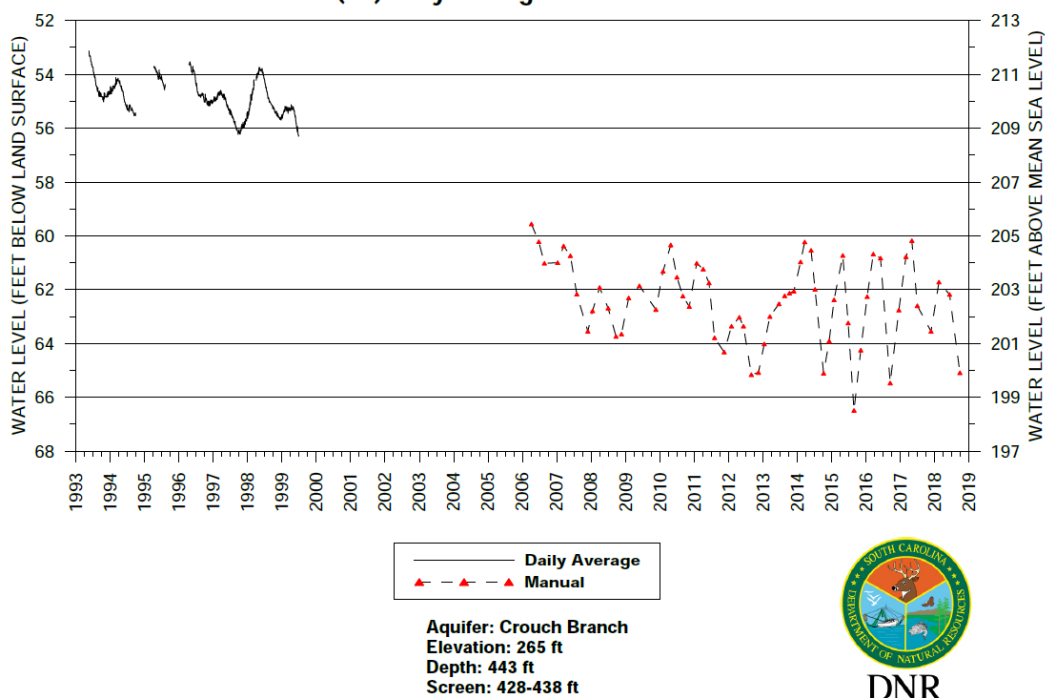




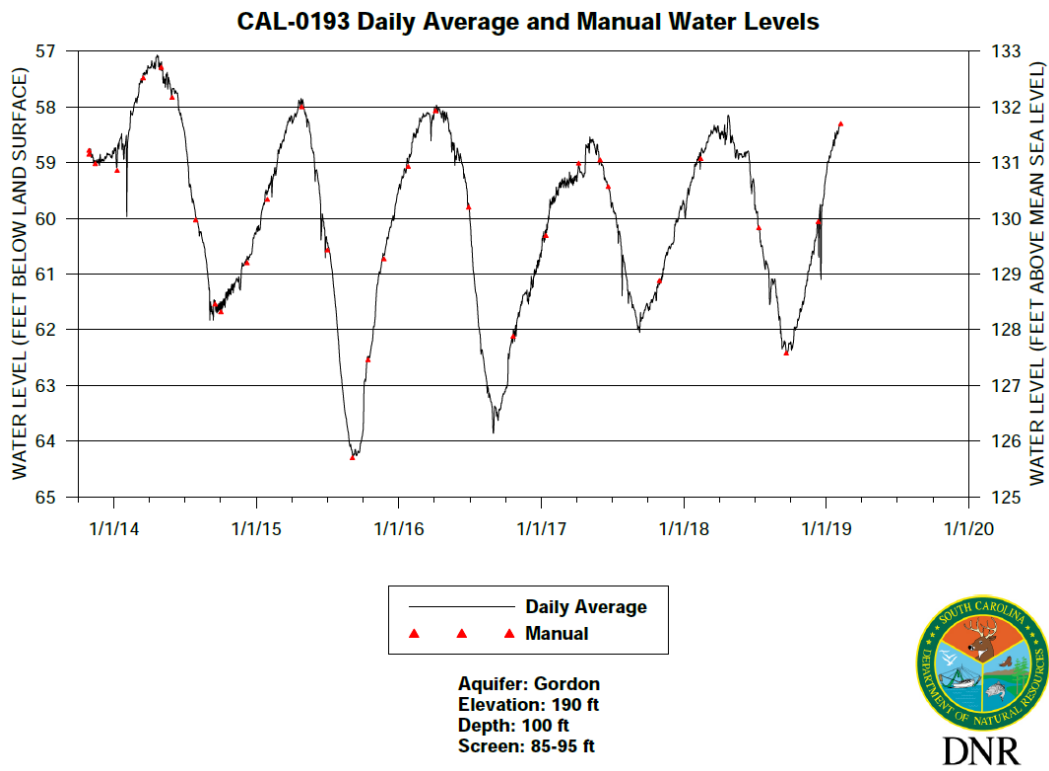
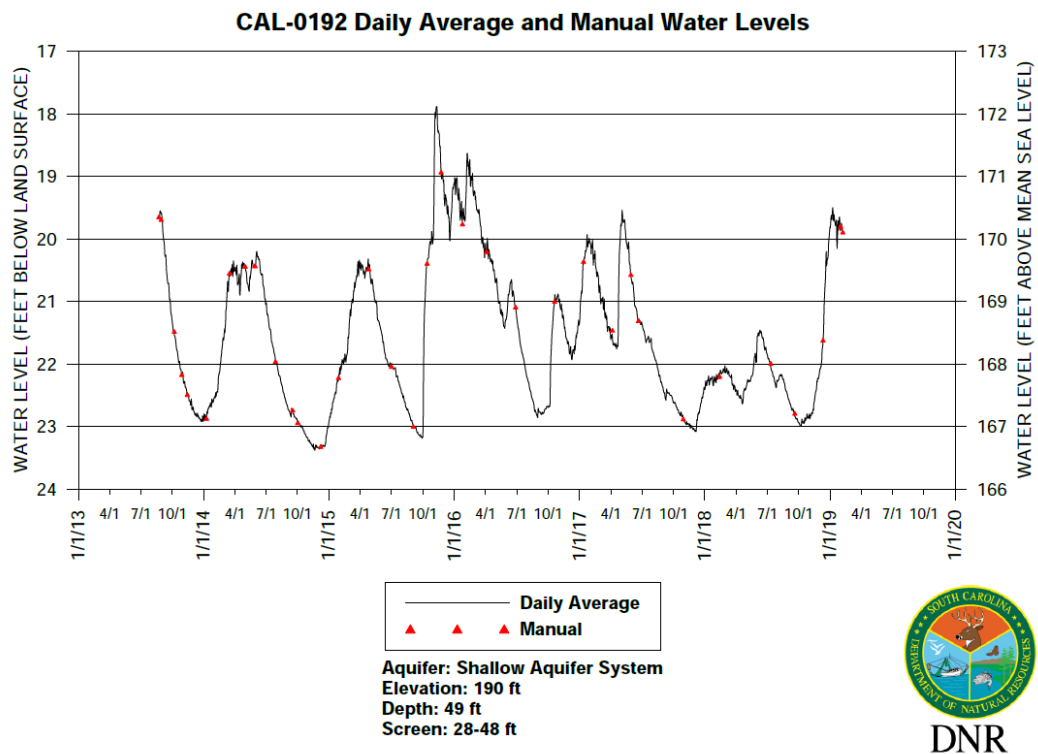
**BRN-0367 (C5) Daily Average and Manual Water Levels**



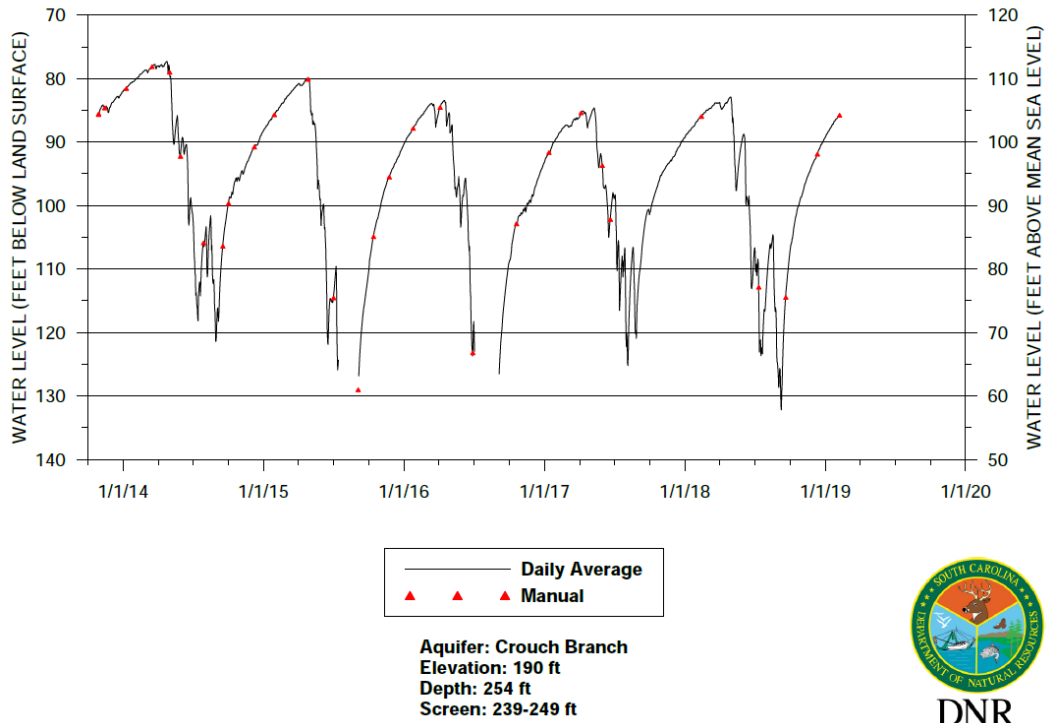
**BRN-0368 (C5) Daily Average and Manual Water Levels**



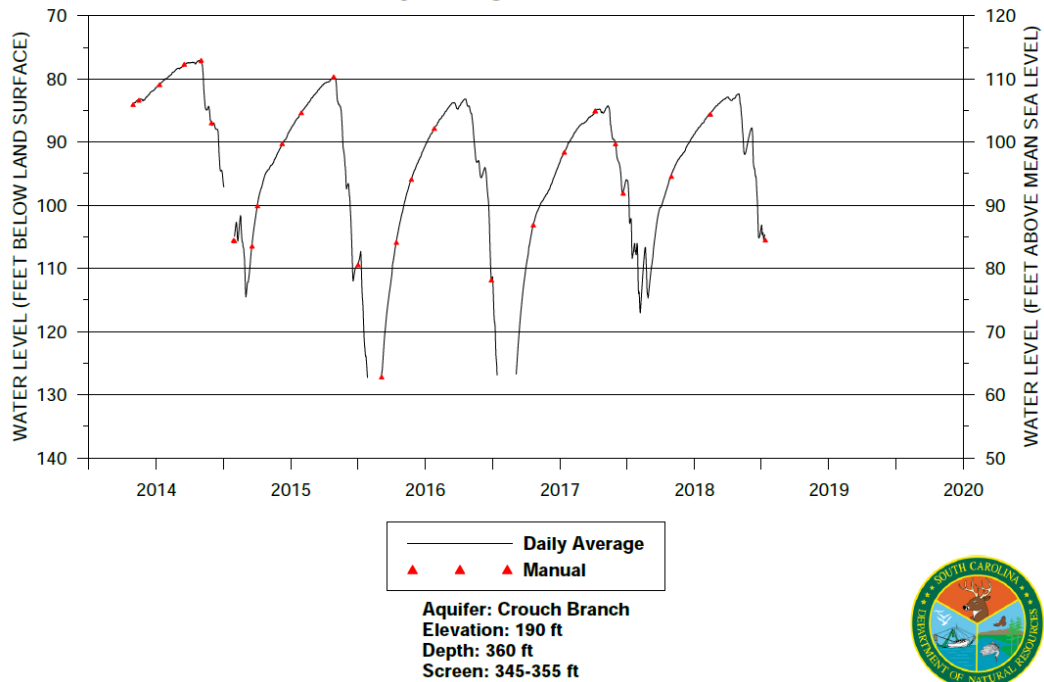
## Calhoun County



**CAL-0194 Daily Average and Manual Water Levels**

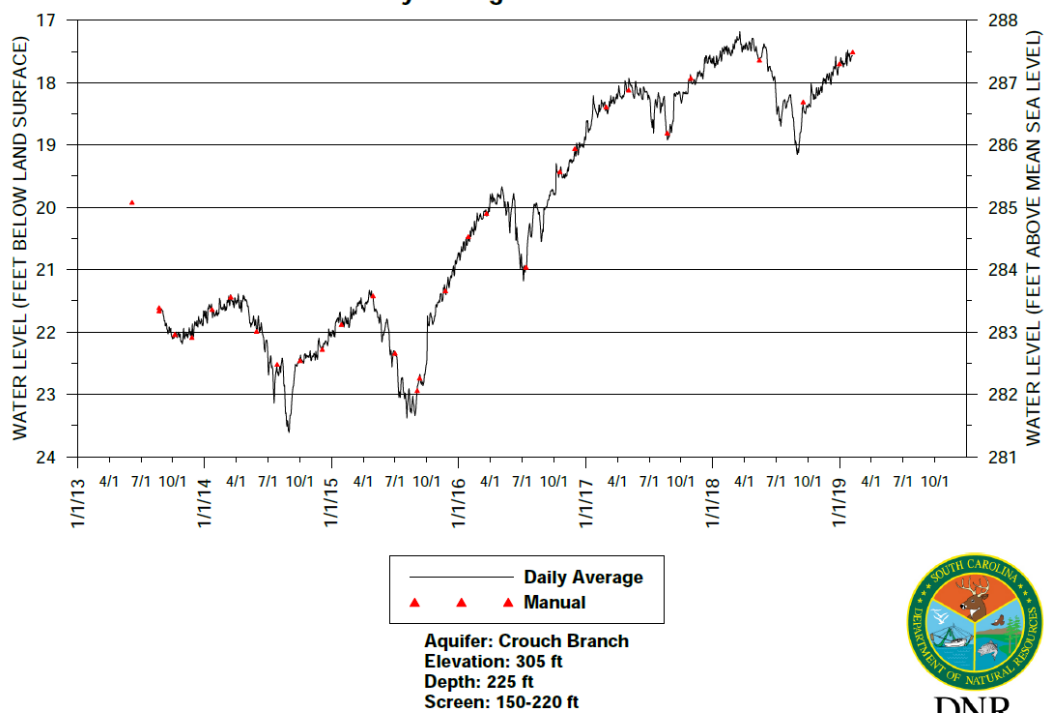


**CAL-0195 Daily Average and Manual Water Levels**

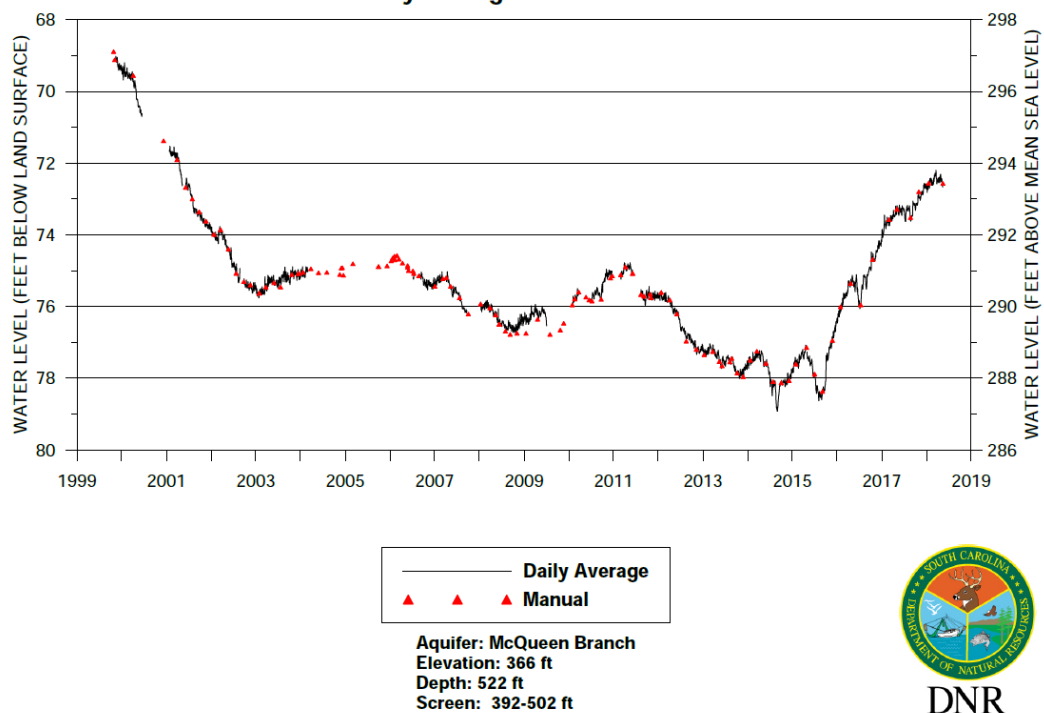


## Lexington County

**LEX-0823 Daily Average and Manual Water Levels**

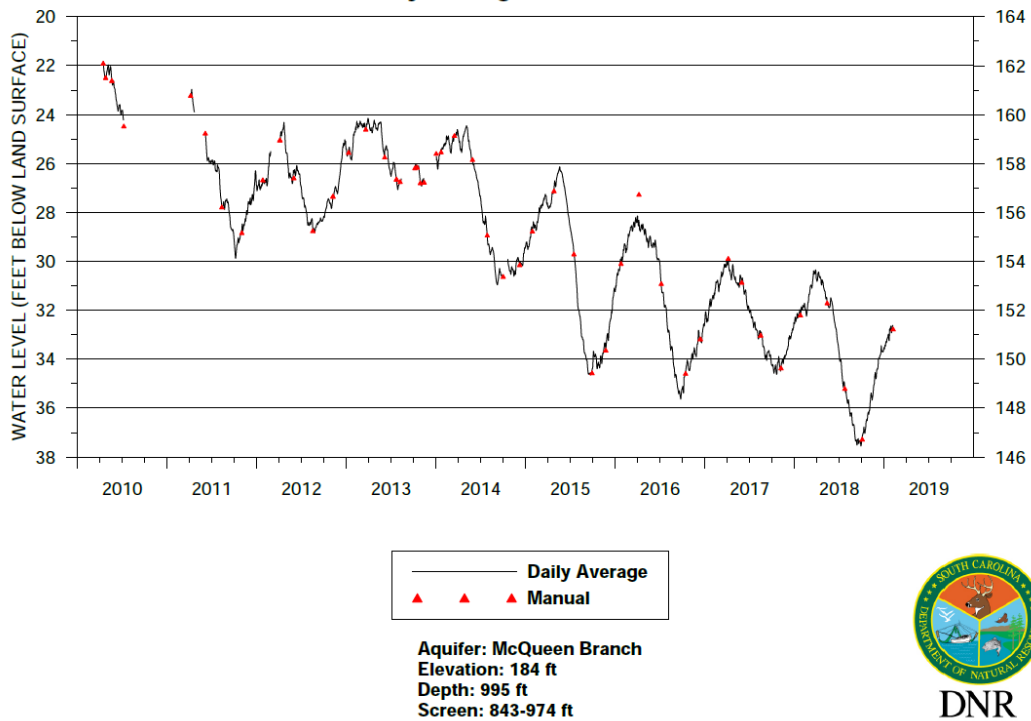


**LEX-0844 Daily Average and Manual Water Levels**

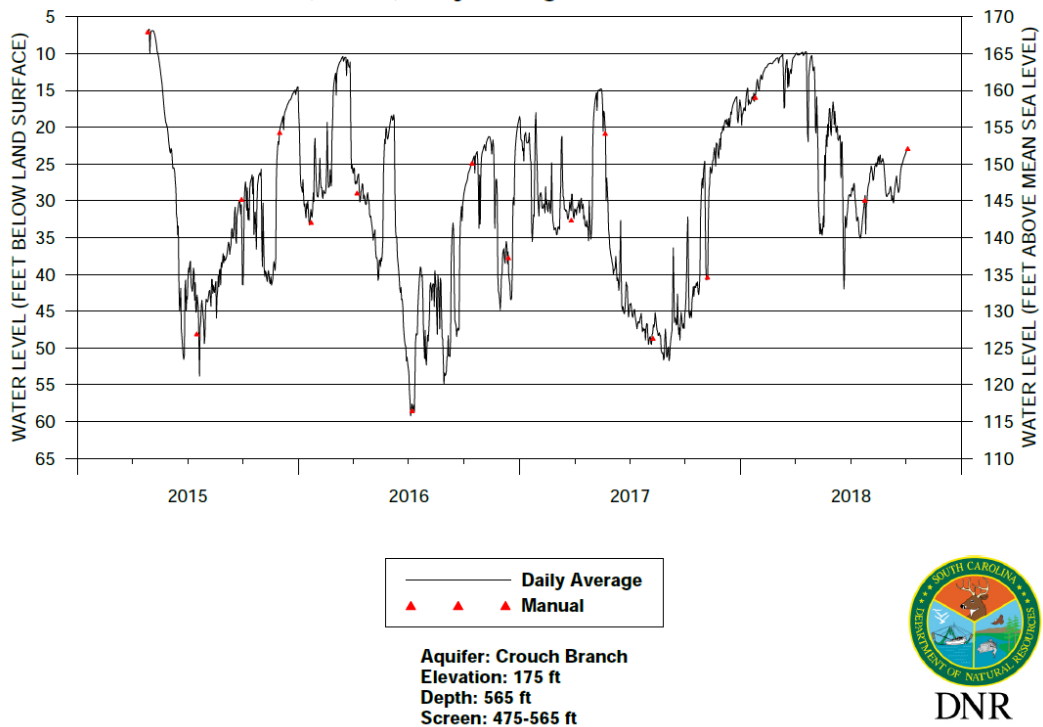


## Orangeburg County

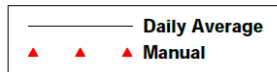
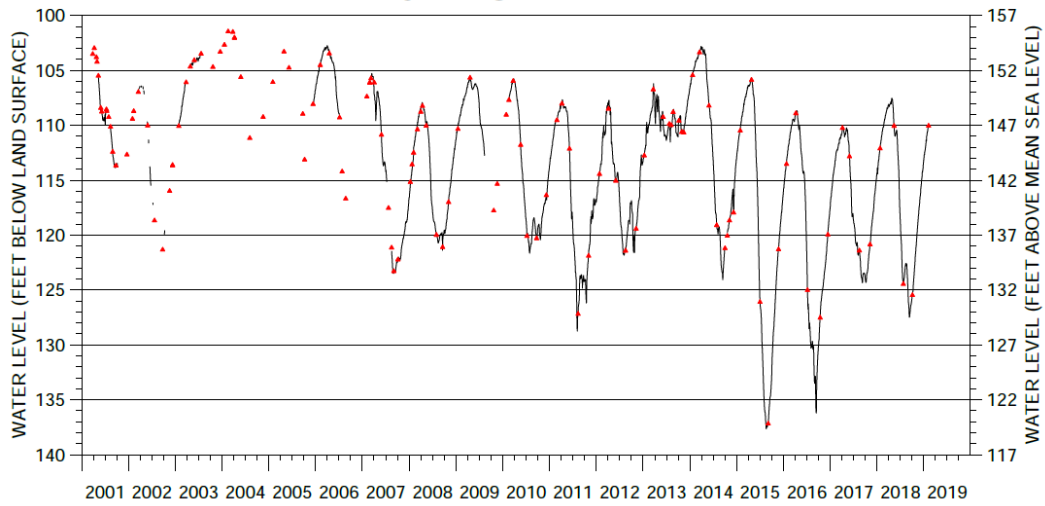
**ORG-0079 Daily Average and Manual Water Levels**



**ORG-0385 (SMW-1) Daily Average and Manual Water Levels**



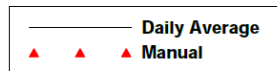
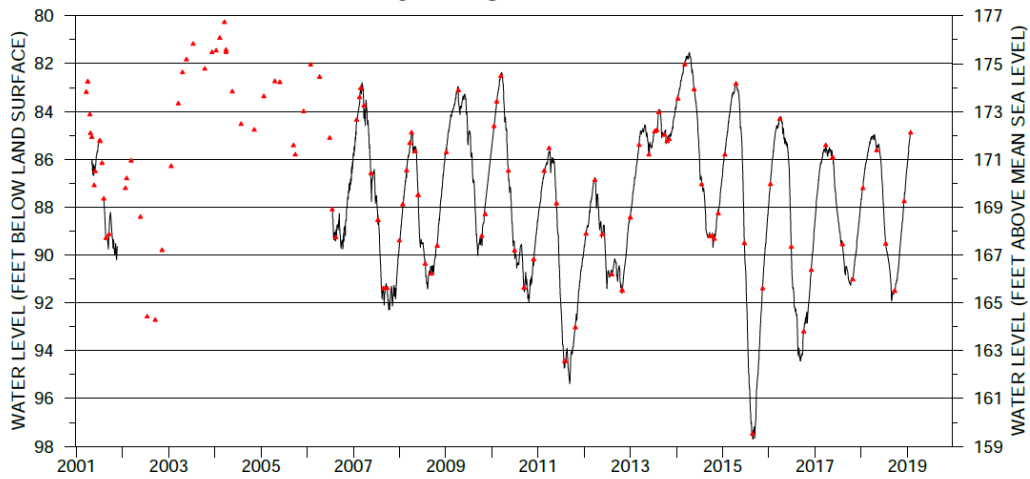
**ORG-0393 Daily Average and Manual Water Levels**



**Aquifer: Crouch Branch  
Elevation: 257 ft  
Depth: 463 ft  
Screen: 423-463 ft**



**ORG-0430 Daily Average and Manual Water Levels**

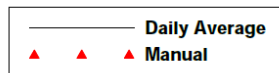
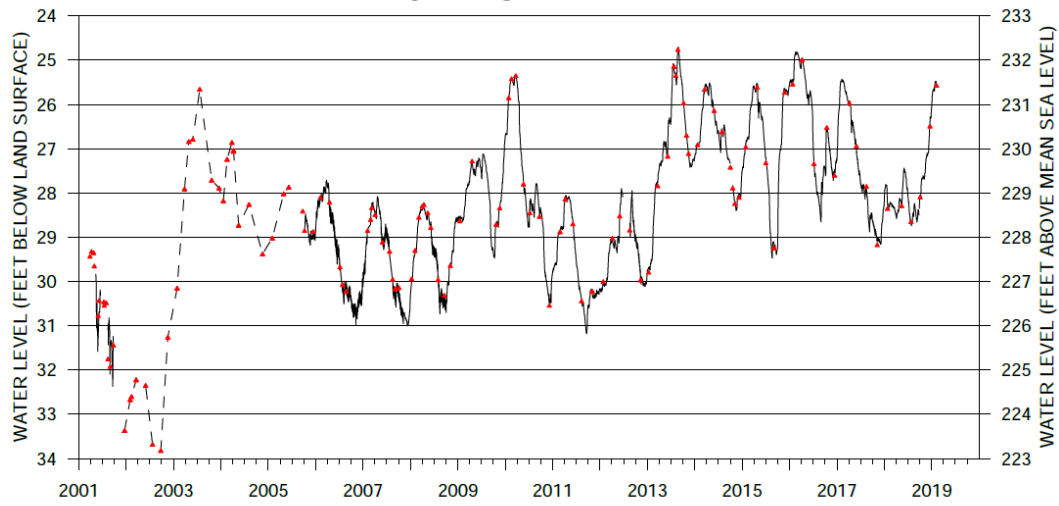


**Aquifer: Gordon  
Elevation: 257 ft  
Depth: 275 ft  
Screen: 205-265 ft**





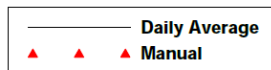
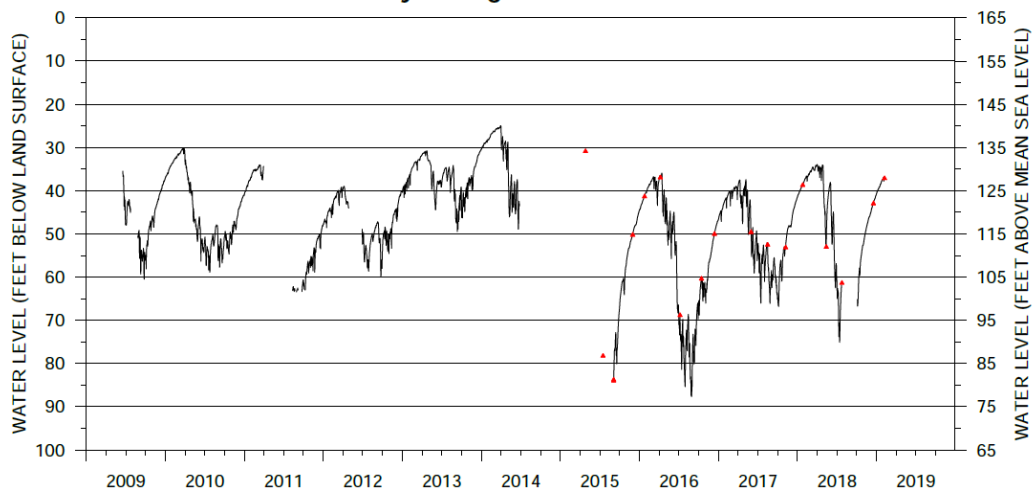
**ORG-0431 Daily Average and Manual Water Levels**



**Aquifer: Middle Floridan  
Elevation: 257 ft  
Depth: 93 ft  
Screen: 83-88 ft**



**ORG-0634 Daily Average and Manual Water Levels**



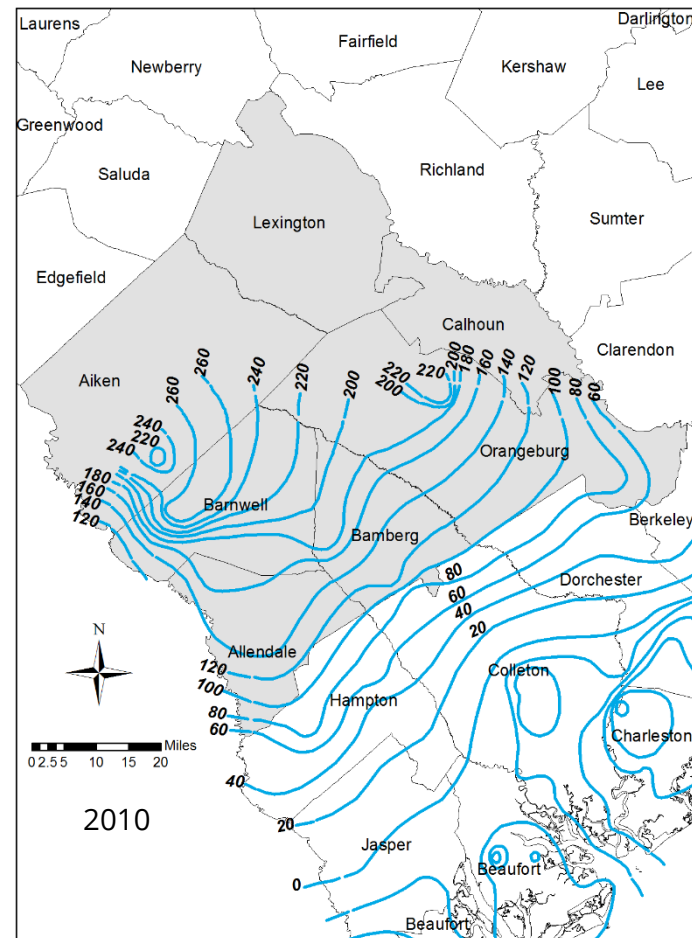
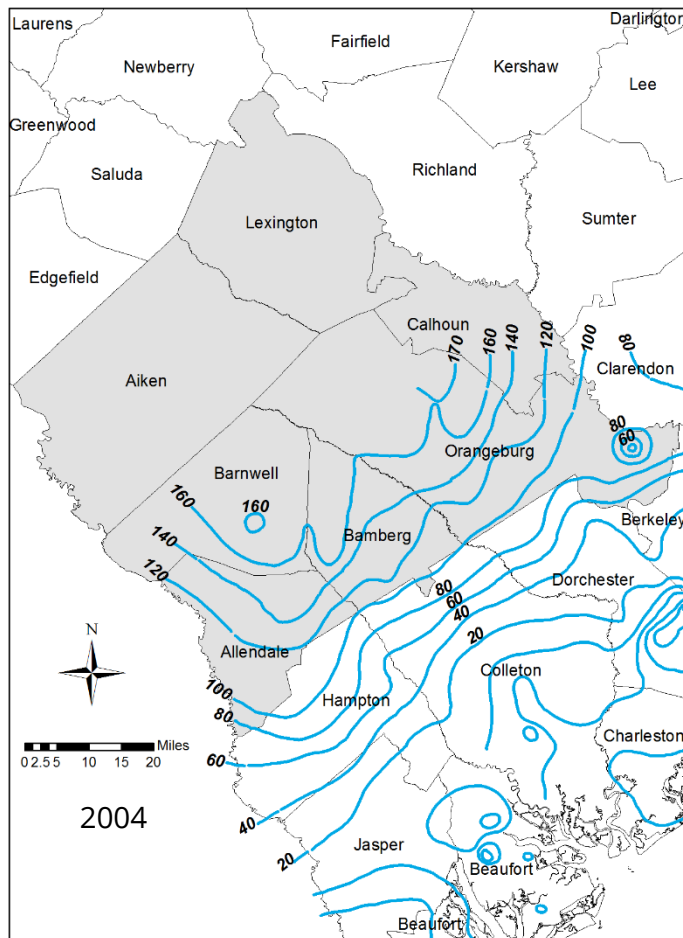
**Aquifer: Middle Floridan  
Elevation: 165 ft  
Depth: 256 ft  
Open Hole: 228-256 ft**



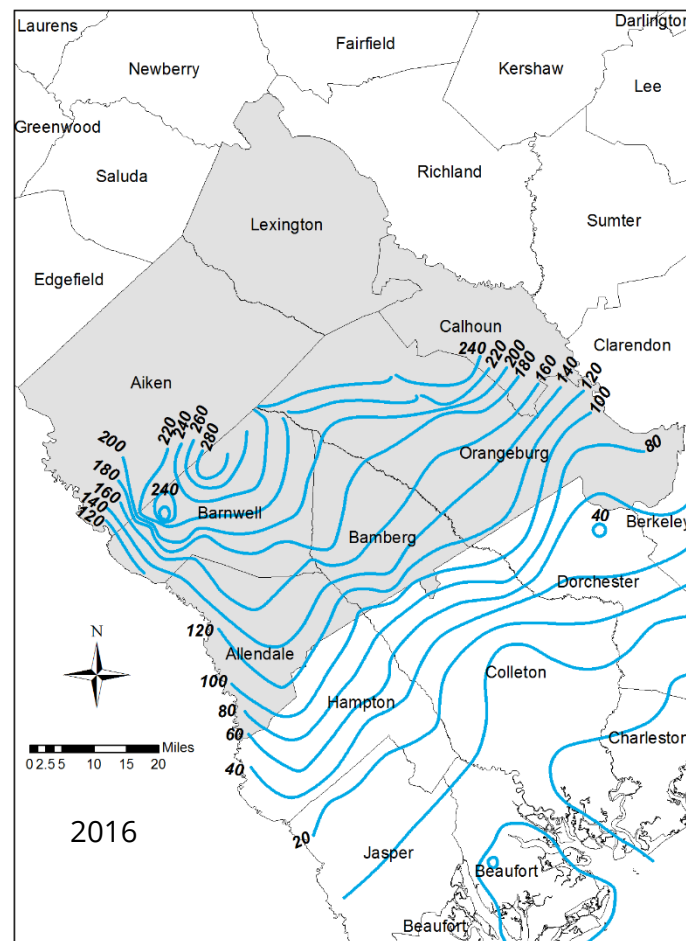
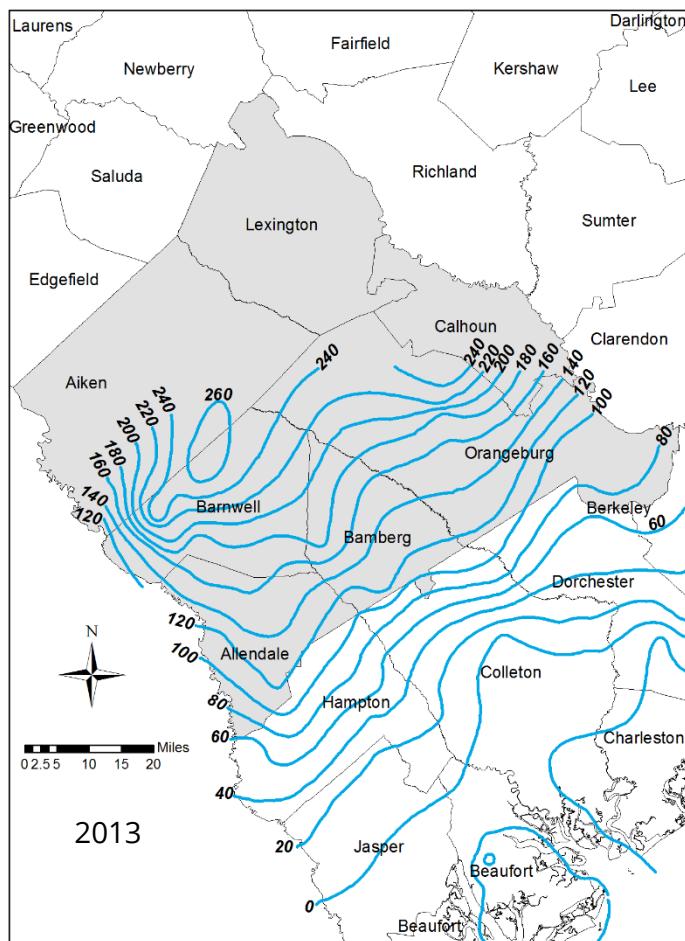
## **Appendix B**

Historic Equipotential Maps  
Western Capacity Use Area Counties

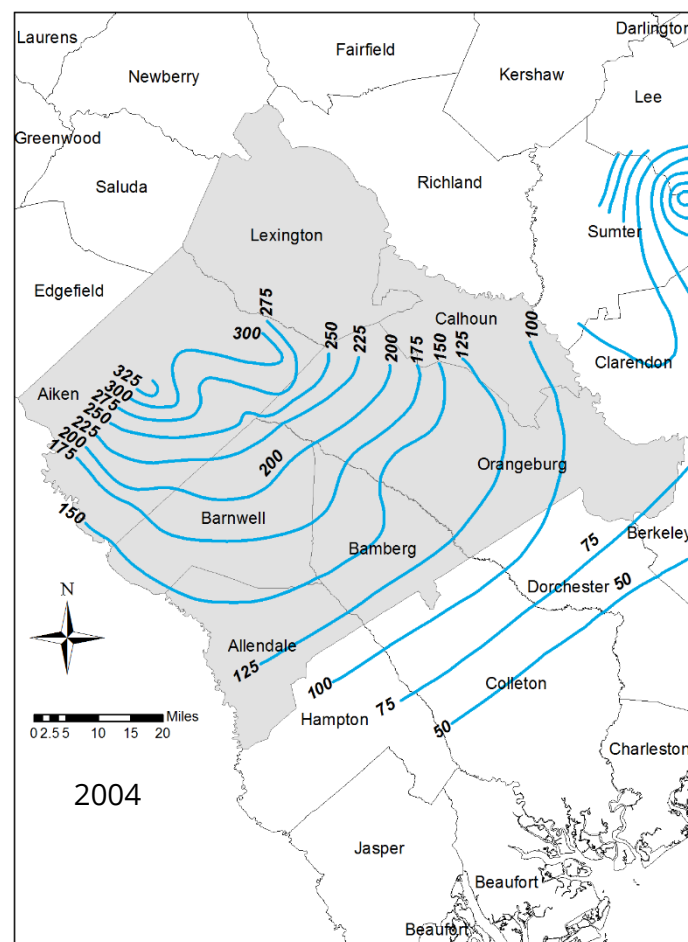
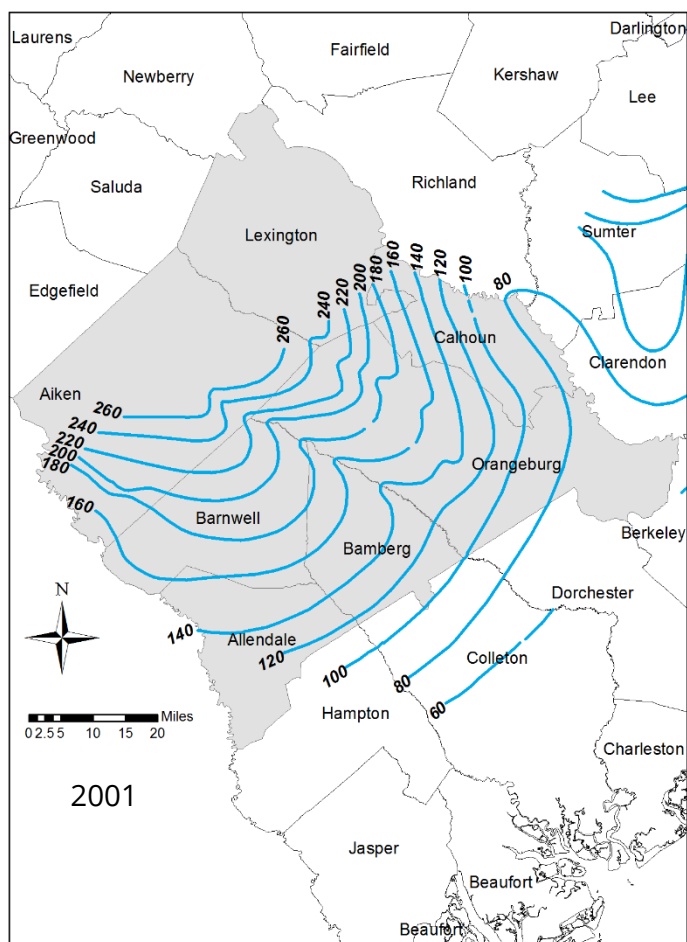
## Floridan/Gordon Aquifer

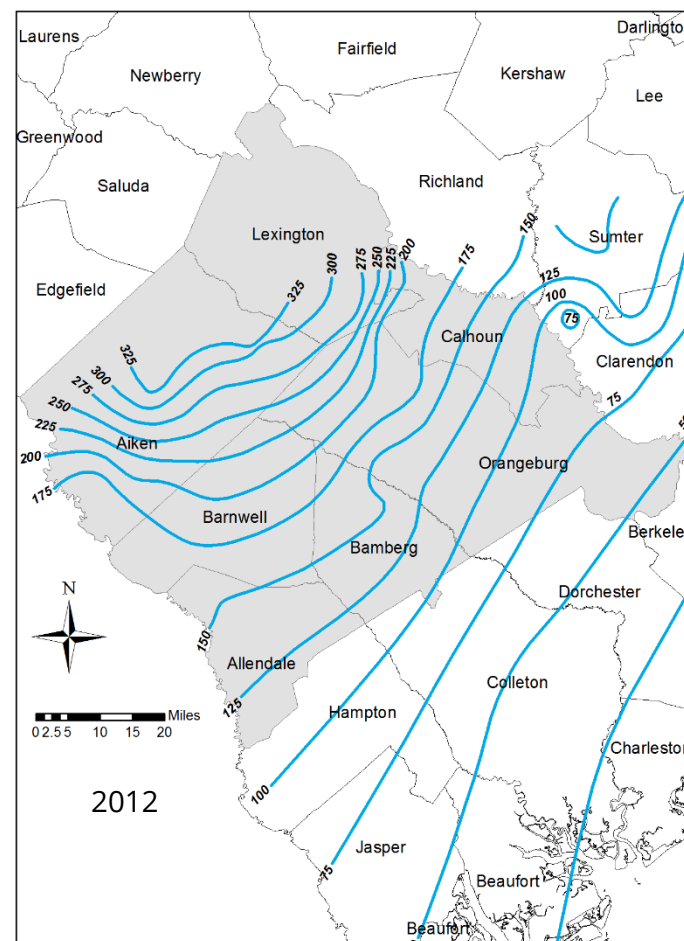
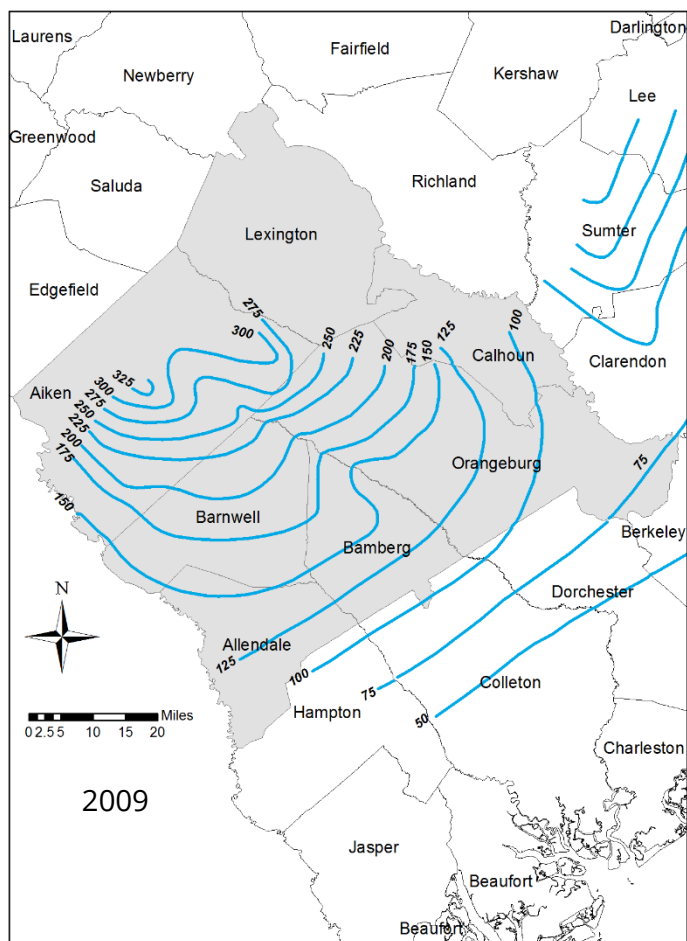


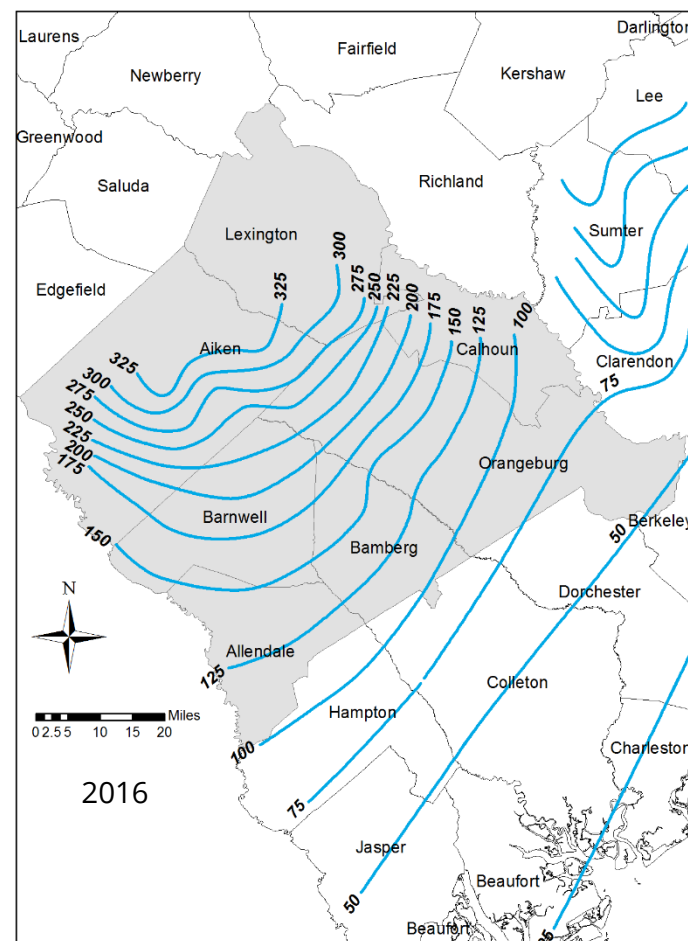
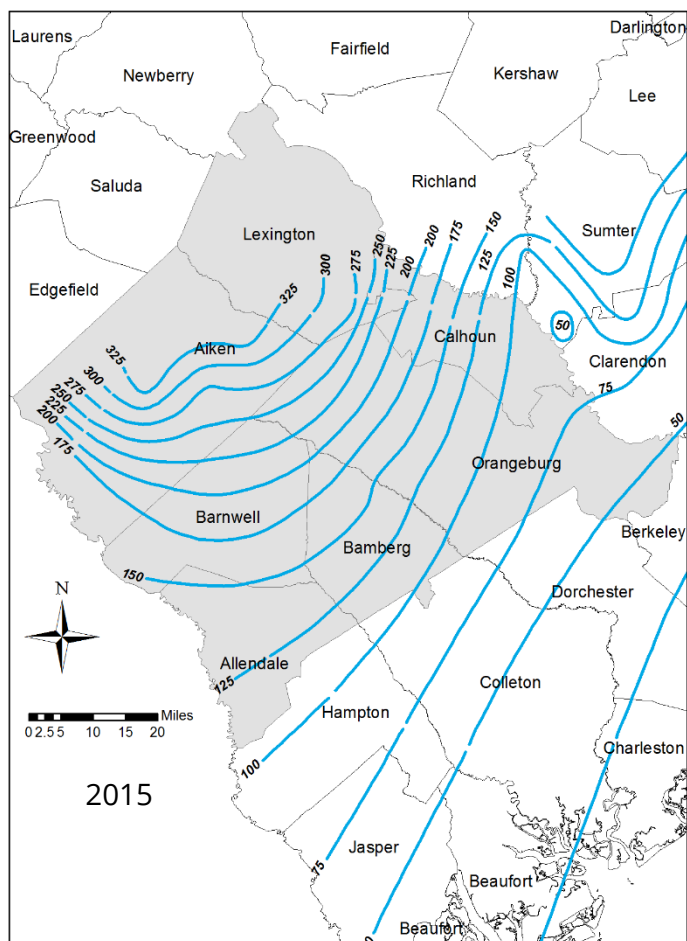
Equipotential Maps: The blue lines indicate water level relative to mean sea level (NAVD 88). The Western Area Counties are highlighted in gray.



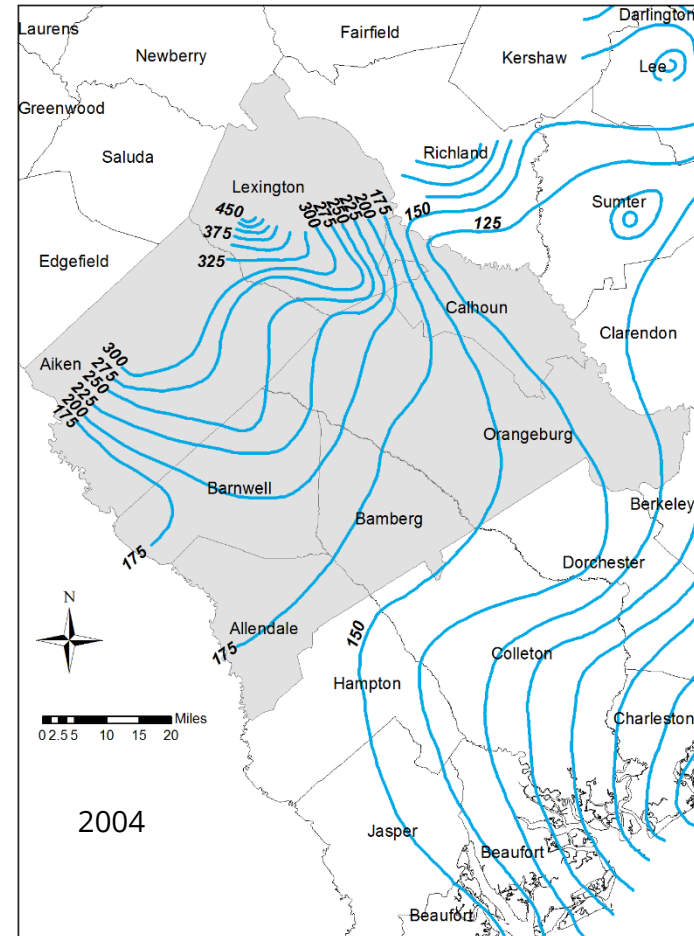
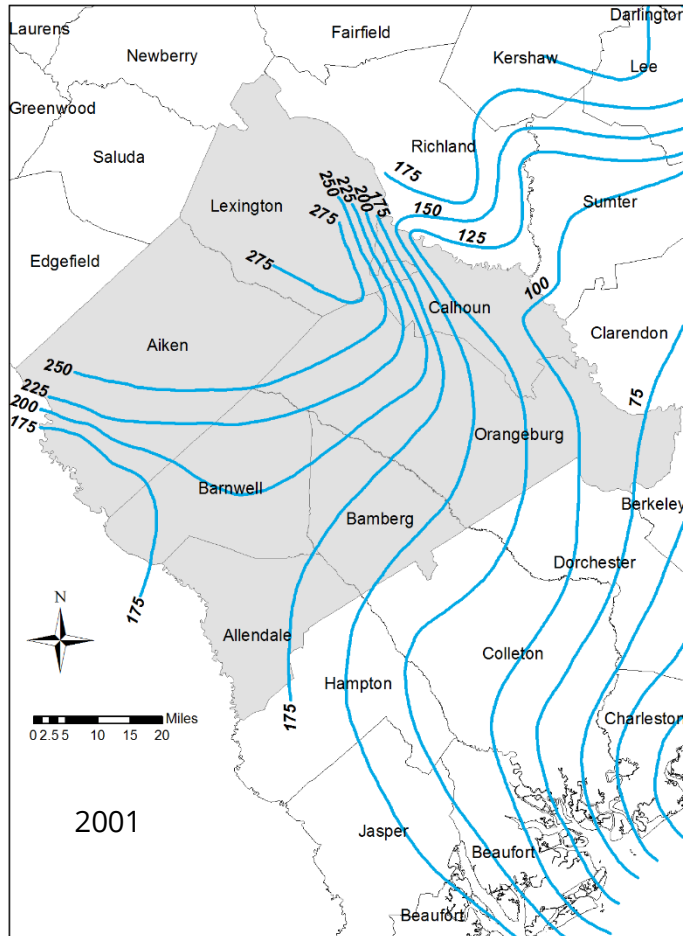
## Crouch Branch Aquifer



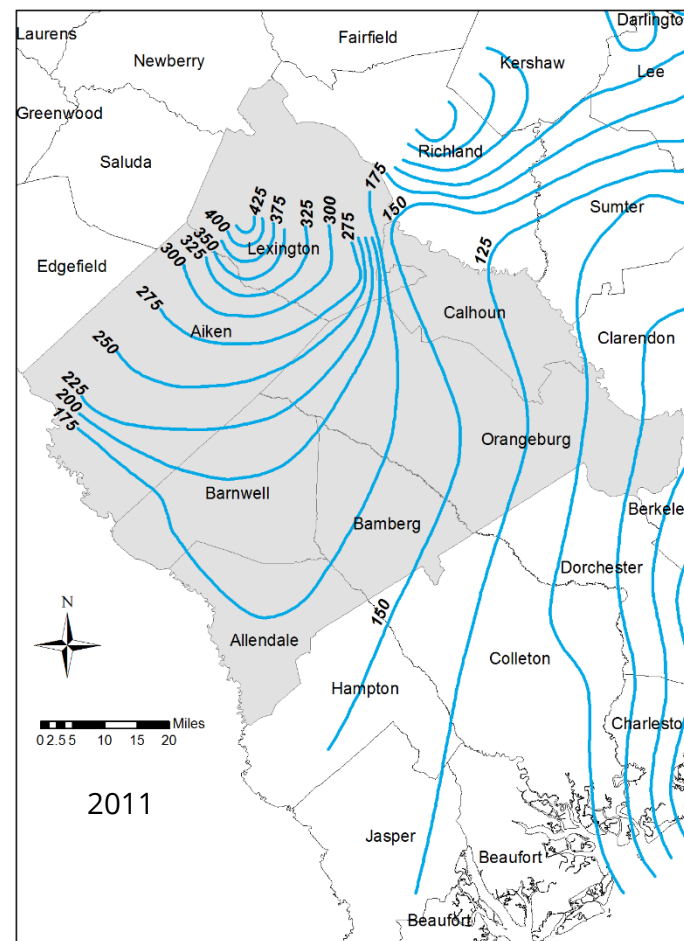
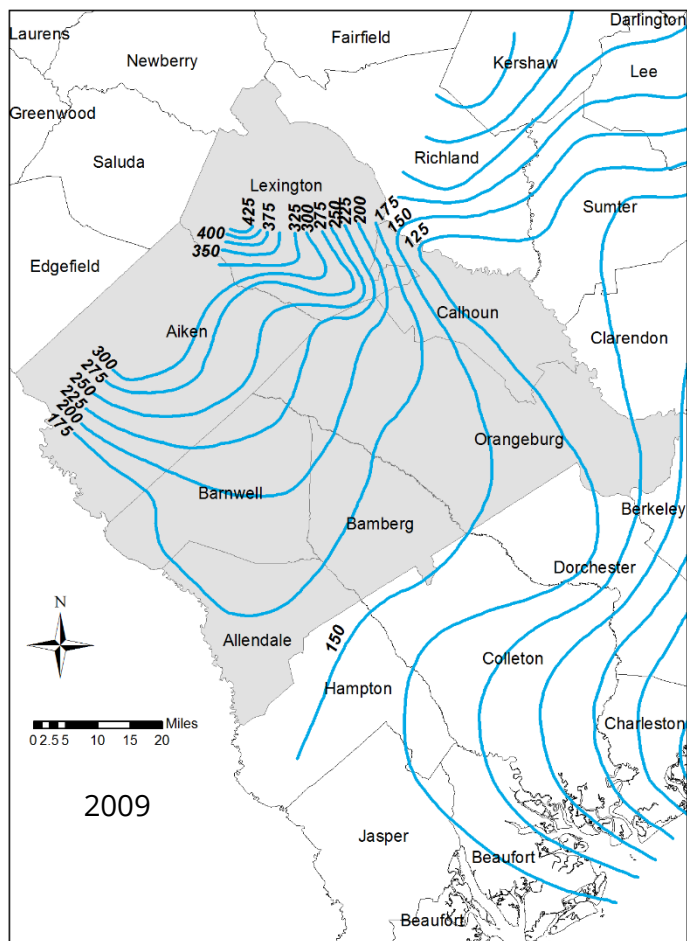


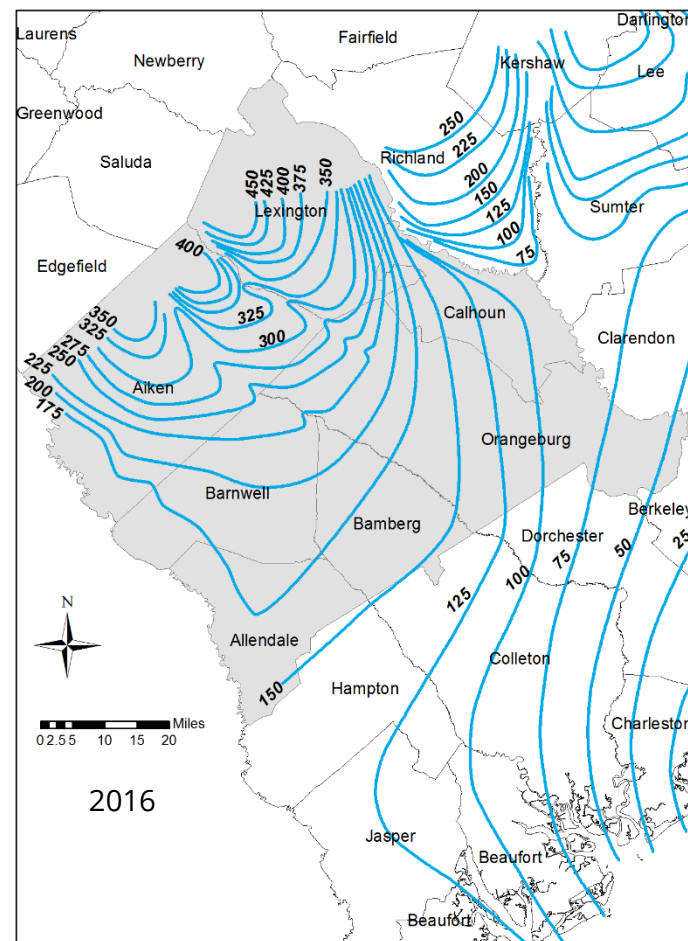
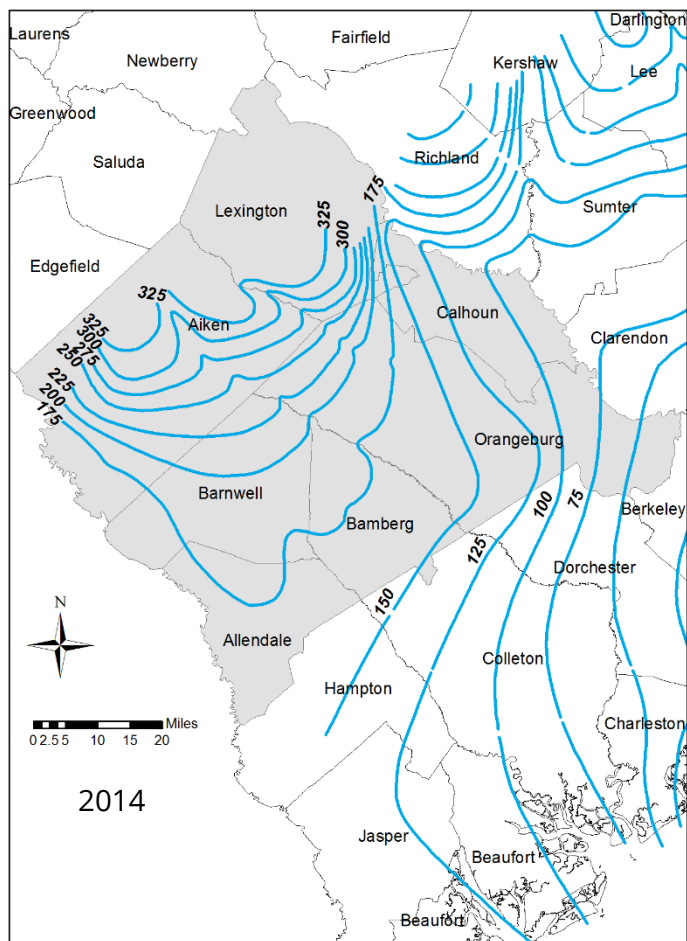


## McQueen Branch Aquifer









**ATTACHMENT B**

**STATE REGISTER NOTICE OF GENERAL PUBLIC INTEREST,  
SEPTEMBER 27, 2019**

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**NOTICE OF GENERAL PUBLIC INTEREST**

**CAPACITY USE AREA GROUNDWATER MANAGEMENT PLAN  
AND PUBLIC HEARING**

September 13, 2019

The Groundwater Use and Reporting Act requires that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources. See S.C. Code Section 49-5-20. Further, the Act states that the Department of Health and Environmental Control (the Department) shall coordinate the affected governing bodies and groundwater withdrawers (of a designated Capacity Use Area) to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. See S.C. Code Section 49-5-60(B). In those areas where the governing bodies and withdrawers are unable to develop a plan, the Department shall take action to develop the plan as required by law.

The Department in coordination with a local Stakeholder Workgroup, diverse in geographic and water user type representation, has developed a local groundwater management plan for the designated Western Capacity Use Area to bring before the Board for final approval. A public hearing for the Western Capacity Use Area groundwater management plan is scheduled for November 7, 2019 during the Board of Health and Environmental Control's monthly meeting where the Western Capacity Use Area groundwater management plan will be heard for final approval. The public hearing and meeting will be held at 10:00 AM in the 3<sup>rd</sup> Floor, Room 3420, of the S.C. DHEC Central Office located at 2600 Bull St., Columbia, S.C. 29201. Local governments, permitted water users, industry, public water suppliers, and the general public are invited to attend and participate.

If you have questions or comments, please contact Robert Devlin, Division of Water Monitoring, Assessment and Protection, at (803) 898-3798 or by email at [DevlinRJ@dhec.sc.gov](mailto:DevlinRJ@dhec.sc.gov). You may also visit our webpage at [www.scdhec.gov/westerncapacityuse](http://www.scdhec.gov/westerncapacityuse) for more information.

**ATTACHMENT C**

**WESTERN CAPACITY USE AREA STAKEHOLDER WORKGROUP  
SUMMARY**

# Western Capacity Use Area Groundwater Management Plan Stakeholder Workgroup Process, Development, & Review

## Timeline Summary:



## Workgroup Values:

Commitment  
 Transparency  
 Mutual Respect  
 Active Participation  
 Dialogue and Listening  
 Solution-Focused  
 Strive for Consensus  
 Focus on the Seven County Region

## Workgroup Commitments:

Attend All Meetings  
 Contribute to Group Discussions  
 Share Process Information  
 Promote Public Comment  
 Communicate Draft Plans to and  
 Encourage Input from other Stakeholders

## Quick Facts:

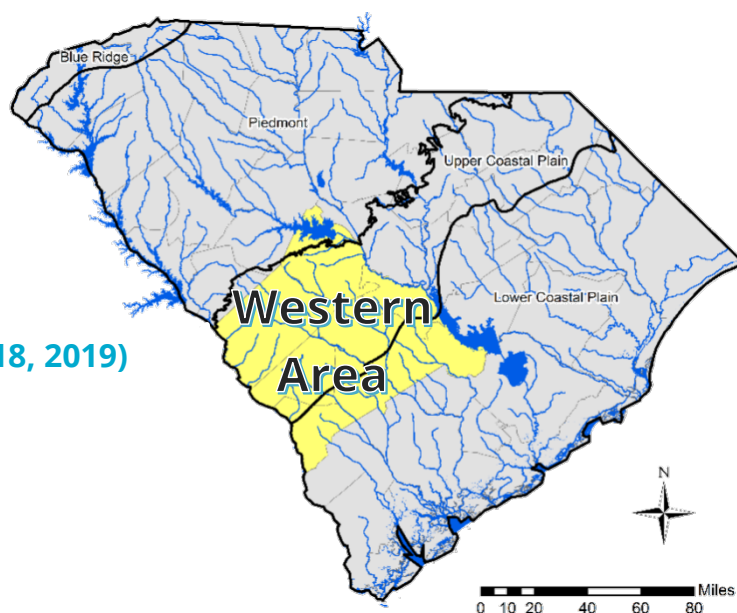
### 20 Person Stakeholder Workgroup

- 7 County Representation
- 6 Water User Types
- 4 Statewide Partners

### 7 Meetings in 7 Months

- 1 Public Meeting (Feb. 12, 2019)
- 5 Workgroup Meetings (Mar. 21 – July 18, 2019)
  - 15 Total Hours
  - 80%-100% Attendance
- 1 Open House (Aug. 14, 2019)
  - 23 Attendees

### 9 Member DHEC Coordination Team



WCUA: PARTICIPATION AND FEEDBACK FORM

(25% Response Rate)

1. The Stakeholder Workgroup and draft planning process was essential to developing a more effective WCUA Groundwater Management Plan.

Strongly Disagree	0
Somewhat Disagree	0
Neutral	0
Somewhat Agree	0
Strongly Agree	5



2. Feedback from the Stakeholder Workgroup was adequately considered and incorporated into the WCUA Groundwater Management Plan

Strongly Disagree	0
Somewhat Disagree	0
Neutral	0
Somewhat Agree	0
Strongly Agree	5



3. Meetings between the Stakeholder Workgroup and DHEC were productive, timely, and relevant to the WCUA Groundwater Management Plan process.

Strongly Disagree	0
Somewhat Disagree	0
Neutral	0
Somewhat Agree	0
Strongly Agree	5



4. The geographic and groundwater user type representation was diverse and necessary to the WCUA Groundwater Management Plan process.

Strongly Disagree	0
Somewhat Disagree	0
Neutral	0
Somewhat Agree	2
Strongly Agree	3



## WCUA: PARTICIPATION AND FEEDBACK FORM (Continued)

5. What was positive about the Stakeholder Workgroup process and how could it have been improved?

*"I felt that the meetings were very well organized and the information given was relevant to the topics discussed. I thought that all of the concerns of the stakeholders were addressed as well. I feel that we did not come up with a plan for the strategy of how to educate other stakeholders, and that could possibly be discussed more."* – [Anonymous](#)

*"The most positive thing to me was that all interests came together and developed a plan that is most beneficial to all citizens and their interests. I do not have any comments for improvements"* – [Anonymous](#)

*"It was conducted in a non-confrontational manner and gave equal validity to each of the different user types. I don't see much need to improve the methods used to formulate the plan. Seemed to work well!"* – [Anonymous](#)

*"Everyone worked together very well and feedback was always openly accepted by DHEC staff and incorporated into plan, or at least discussed in length, by group."* – [Anonymous](#)



## ADDITIONAL FEEDBACK

*"Been pleased with the group and how we've worked together. There are a lot of different opinions and agendas, and we have gotten along well. It has been a good group, and I have enjoyed it. The problems are more state-wide than just in this area. We (the agriculture community) have a problem with the 5 year permit, but not for this group. I see problems with too many hands in the pot and too many agencies involved; I would like it streamlined. Thank you all for cooperating."* – [Lawrence L. "Landy" Weathers, Circle W Farms & Weathers Farms](#)

*"I am generally happy with everything and appreciate the ability to give input. An issue I have: the issue of applying for a permit to construct and then a permit to withdraw. It can be \$25,000 to drill the well and then get a permit to withdraw. Can someone appeal either permit? What happens if my withdrawal permit is appealed after I have received my permit to construct without an appeal, and I already spent my money to construct the well?"* – [Dean Hutto, Hutto Brothers Partnership](#)

*"We have made great strides on how we holistically look at everything."* – [Laura Bagwell, Aiken County Aiken County Soil & Water Conservation District](#)

*"Where we are is a good starting point, and it's an iterative process. I'd also like to say that I agree with how well this body worked together. It was a thrill to see something happen in the context of watching the state water plan process – it was almost breathtaking."* – [Hugo Krispyn, Friends of the Edisto/Edisto Riverkeeper](#)

*"I appreciate the opportunity to be involved as more of a 3<sup>rd</sup> party – this has been constructive. I know that from our highest up at Clemson, water is to be taken seriously so we appreciate what's been done here."* – [Calvin Sawyer, Clemson University](#)

*"Thanks for all the hard work Lance and everyone else at DHEC has done to make this collaboration possible. I know all of us really appreciate the time and effort it takes."* – [Rebecca "Becky" Ashley, Dominion Energy](#)

*"I feel like we have done a good job at incorporating into this document the aspects of the WCUA that are different from the Lowcountry and Trident which was a concern all along. We might still need to scrutinize the text and make sure we're happy with it. As Cal said, we can't be too prescriptive too soon. I am happy about the way in which the plan identifies a range of actions or thresholds without triggers, which has been the hardest thing for me. Always thought there should be more discussion in how the Capacity Use Areas interact, and even how other areas interact with this one. We are talking about this one area and each area is unique. [The state] should go through all of the coastal plain and integrate ground and surface water. I appreciate the ability to give input."* – [Peter Delorme, Citizen](#)

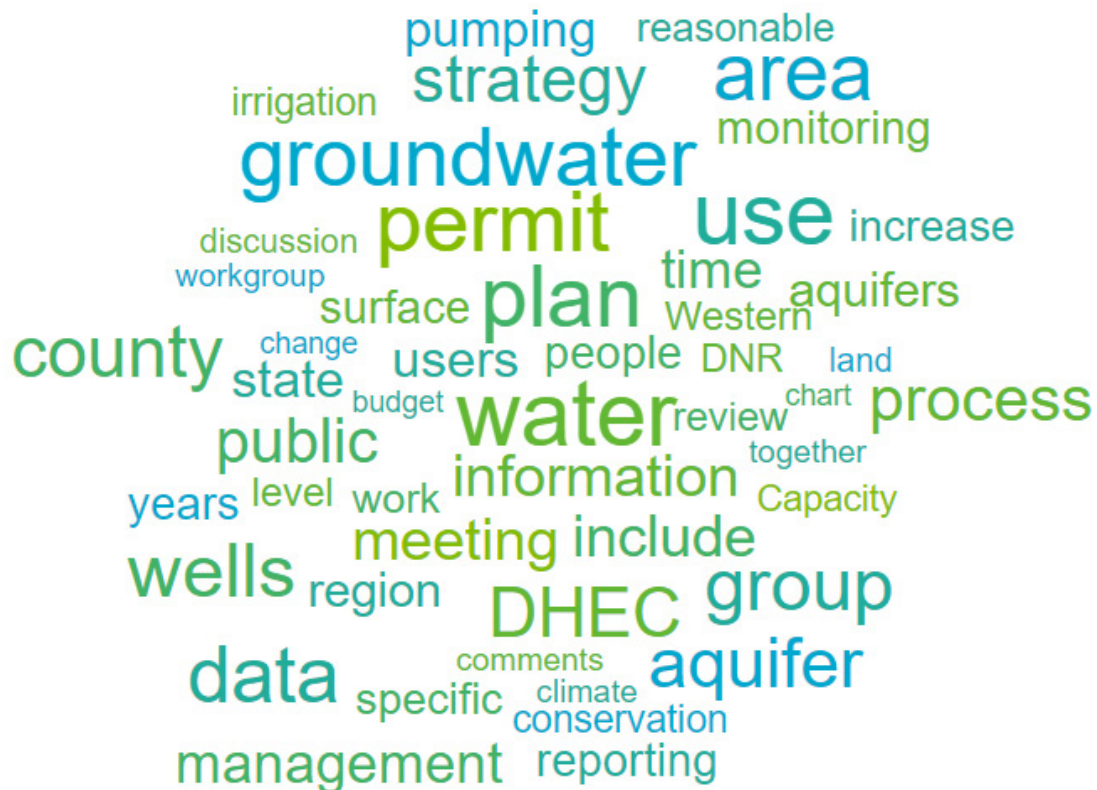
## WORD CLOUD: STAKEHOLDER WORKGROUP FEEDBACK AND REVIEWS

(Word Frequency Minimum: 3)



## WORD CLOUD: STAKEHOLDER WORKGROUP MEETINGS

(Word Frequency Minimum: 20)

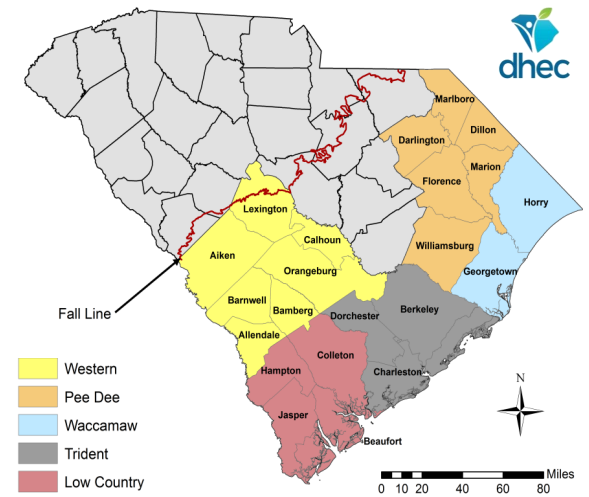


## STAKEHOLDER WORKGROUP

Name	Email	Organization	County
Rebecca Ashley	Rebecca.ashley@scana.com	Dominion Energy	Orangeburg
Laura Bagwell	Bagham@bellsouth.net	Aiken Co. Water & Sewer District	Aiken
Peter Delorme	Peterdelorme@bellsouth.net	Citizen/Homeowner	Aiken
Mark Forrester	Mwforrester@pbtcomm.net	Gilbert Summit Rural Water District	Lexington
Dean Hutto	Deanbhutto@gmail.com	Hutto Brother's Farm Partnership	Orangeburg
Hugo Krispyn	Hugo@swampvox.com	Friends of the Edisto	Bamberg
Jeff Lowe	Jlowe@bhws.org	Breezy Hill Water & Sewer District	Aiken
Jill Miller	jill@scrwa.org	SC Rural Water Association	Statewide
Ted Millings	Ted.millings@srs.gov	Savannah River Site	Barnwell/Aiken/Allendale
Jacob Oswald	Jacoboswald92@gmail.com	AIS, LLC/JCO Farms	Allendale
Nick Rubin	Nrubin@scrwa.org	SC Rural Water Association	Statewide
Calvin Sawyer	calvins@CLEMSON.EDU	Clemson University	Statewide
Mike Swearingen	Mikeaaaawd@gmail.com	Groundwater Association	Statewide
Alex Tolbert	Atolbert@orangeburgcc.com	Carolina Golf Course Superintendents Association/Orangeburg Country Club	Orangeburg
Richard Tyner	Richard.tyner@archroma.com	Archroma	Allendale
Andy Wachob	Wachoba@dnr.sc.gov	SC Department of Natural Resources	Statewide
Jeremy Walther	Jeremy.walther@waltherfarms.com	Walther Farms	Aiken/Barnwell
Landy Weathers	Landy5550@yahoo.com	Circle W Farms/Weathers Farms	Calhoun
Will Martin	jwmartin@bambergsc.com	Bamberg Board of Public Works	Bamberg
Hogan Kaney	hkaney@supersod.com	Supersod Farms	Orangeburg

**ATTACHMENT D**

**POWERPOINT PRESENTATION – WESTERN CAPACITY USE AREA  
GROUNDWATER MANAGEMENT PLAN SUMMARY**



South Carolina Department of Health and Environmental Control

# Western Capacity Use Area Local Groundwater Management Plan

Water Quantity Permitting Section

## Groundwater Use and Reporting Act Legislative Declaration of Policy

“The General Assembly declares that the general welfare and public interest require that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources.”

## Capacity Use Area Designation 45-5-60(A)

In the State where excessive groundwater withdrawal presents potential adverse effects to the natural resources or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source, including salt water intrusion, the board, after notice and public hearing, in accordance with the Administrative Procedures Act, shall designate a capacity use area.

## Groundwater Management Planning 45-5-60(B)

After notice and public hearing, the department shall coordinate the affected governing bodies and groundwater withdrawers to develop a groundwater management plan to achieve goals and objectives stated in [Legislative Declaration of Policy] .

In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan.



## Groundwater Withdrawal Permitting 45-5-60(C)

Once the board approves the groundwater management plan for a designated capacity use area , each withdrawer shall make application for a groundwater withdrawal permit . The department shall issue groundwater withdrawal permits in accordance with the approved plan.



# Groundwater Management Plan Stakeholder Workgroup

- 20 Members
- Balanced representation of groundwater users & stakeholders
- Geographic representation
- Different expertise & perspectives
- Connect to broader stakeholder groups



# WCUA Stakeholders Workgroup

- **Becky Ashley**
  - Dominion Energy, Orangeburg County
- **Laura Bagwell**
  - Aiken County Soil & Water Conservation District
- **Peter De Lorme**
  - Citizen, Aiken County
- **Mark Forrester**
  - Gilbert Summit Rural Water, Lexington County
- **Dean Hutto**
  - Hutto Brothers Partnership, Orangeburg County
- **Hogan Kaney**
  - Supersod, Orangeburg County
- **Hugo Krispyn**
  - Friends of the Edisto/Edisto Riverkeeper, Bamberg County
- **Jeff Lowe**
  - Breezy Hill Water & Sewer Co., Inc., Aiken County
- **Will Martin**
  - Bamberg County Public Works, Bamberg County
- **Ted Millings**
  - Savannah River Site, Barnwell County
- **Jacob Oswald**
  - AIS, LLC & JCO Farms, Allendale County
- **Nick Rubin**
  - SC Rural Water Association, Statewide
- **Calvin Sawyer**
  - Clemson University, Statewide
- **Tripp Sikes**
  - Town of St. Matthews, Calhoun County
- **Mike Swearingen**
  - Groundwater Association, Statewide
- **Alex Tolbert**
  - Carolina Golf Course Superintendents Association, Orangeburg Country Club
- **Richard Tyner**
  - Archroma, Allendale
- **Andy Wachob**
  - SC Department of Natural Resources, Statewide
- **Jeremy Walther**
  - Walther Farms, Aiken & Barnwell Counties
- **Lawrence L. "Landy" Weathers**
  - Circle W Farms & Weathers Farms, Calhoun County

## Groundwater Capacity Use Areas - Western South Carolina

### • The Western Capacity Use Area

On November 8, 2018, the South Carolina Department of Health and Environmental Control Board, as established in Section 49-5-60, approved the designation of all of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington and Orangeburg Counties as the Western Capacity Use Area.

The Groundwater Use and Reporting Program issues Groundwater Use Withdrawal Permits to all groundwater systems located in a designated Capacity Use Area. Groundwater withdrawal permits are required to withdraw and use groundwater equal to or greater than three million gallons in any month in the counties in these areas.

### • The Groundwater Management Plan

The Groundwater Use and Reporting Act requires that a Groundwater Management Plan be developed for each designated Capacity Use Area to achieve the goals and objectives of conserving and protecting the resources, preventing waste, and providing and maintaining conditions which are conducive to the development and use of water resources.

DHEC convened the first in a series of Groundwater Management Plan Stakeholder Workgroup meetings on March 21, 2019. The Stakeholder Workgroup is comprised of 20 members across the seven county area and state, and they represent various groundwater users from water supply

### Share This Resource



### Downloads & Links

 [Groundwater Withdrawals Overview](#)

 [Groundwater Management Planning](#)

 [What Are Capacity Use Areas?](#)

 [Process & Plan Development](#)


 [Other Resources](#)



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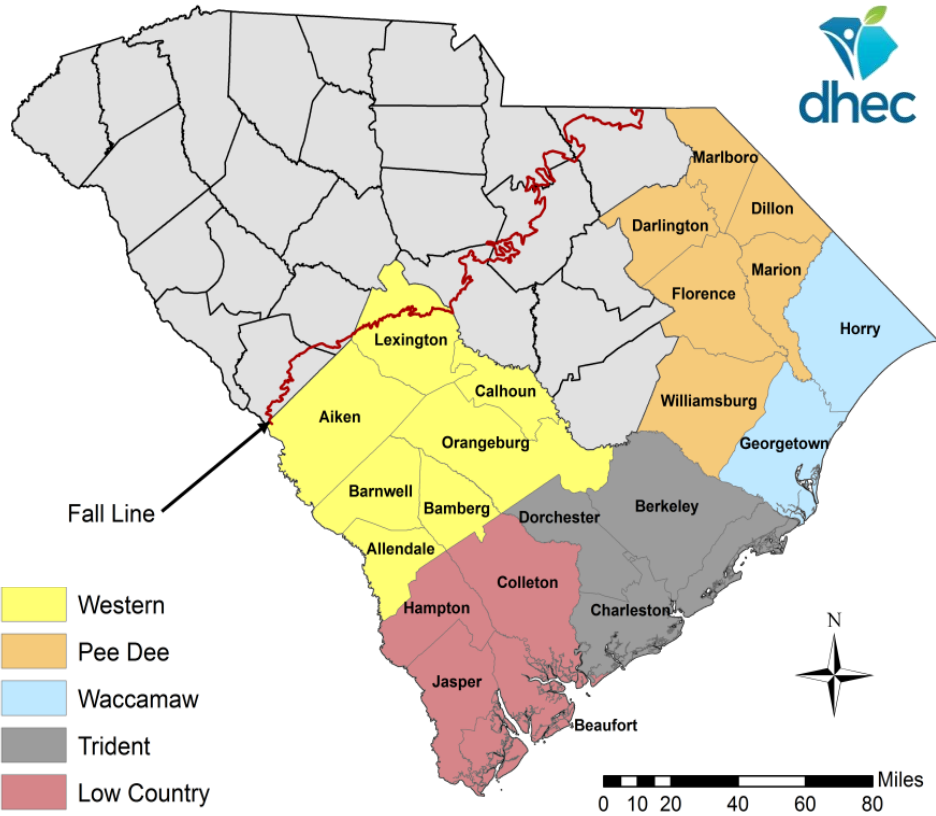
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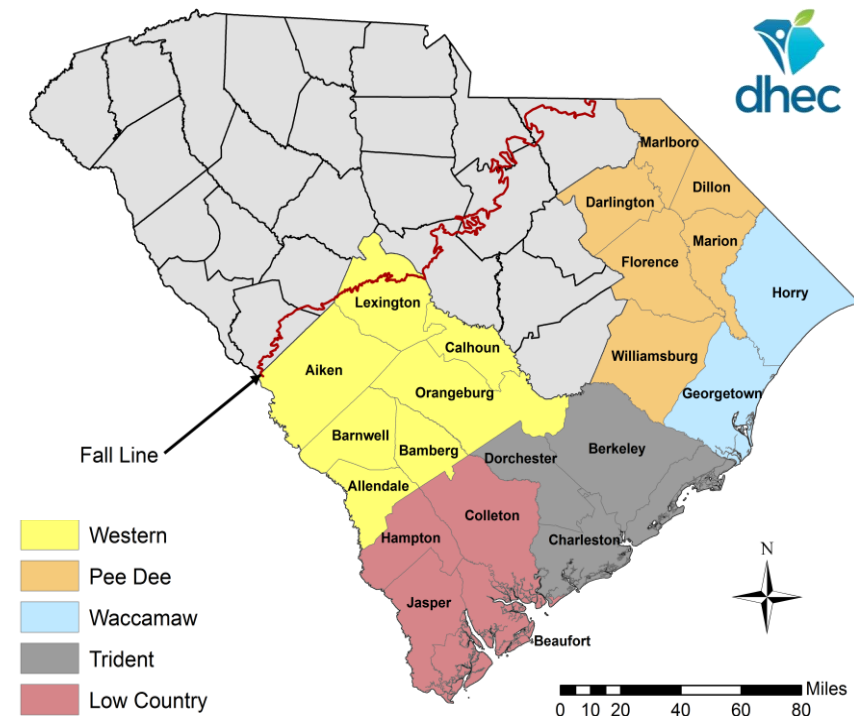
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# Introduction

## 3 General Goals:

1. Ensure sustainable use of the groundwater resource by management of groundwater withdrawals;
2. Monitor groundwater conditions to evaluate availability; and
3. Promote educational awareness of the resource and its conservation.



# Definitions

**Adverse Effects:** undesirable consequences of withdrawing groundwater that may include: changes in water quality, significant reduction in water level of the aquifer, saltwater intrusion, land subsidence, and decreases in stream flow

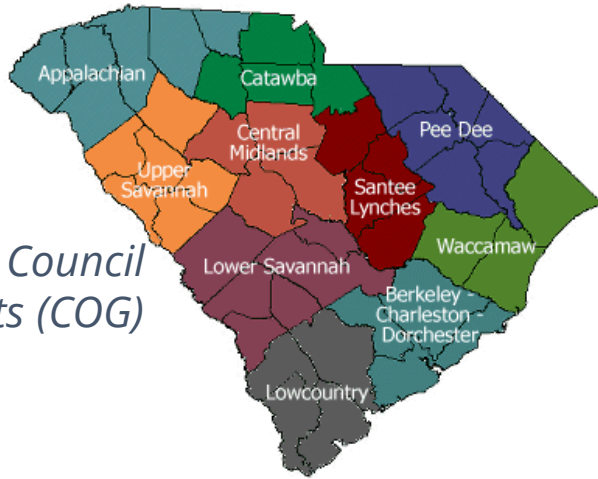
**Stakeholder Workgroup:** the SC DHEC designated committee, diverse in geographic and type-use representation, maintained as an advisory and collaborative partner concerning groundwater permitting, planning, education, and evaluation of the WCUA

**Reasonable Use:** the use of a specific amount of water without waste that is appropriate under efficient practices to accomplish the purpose for which the appropriation is lawfully made

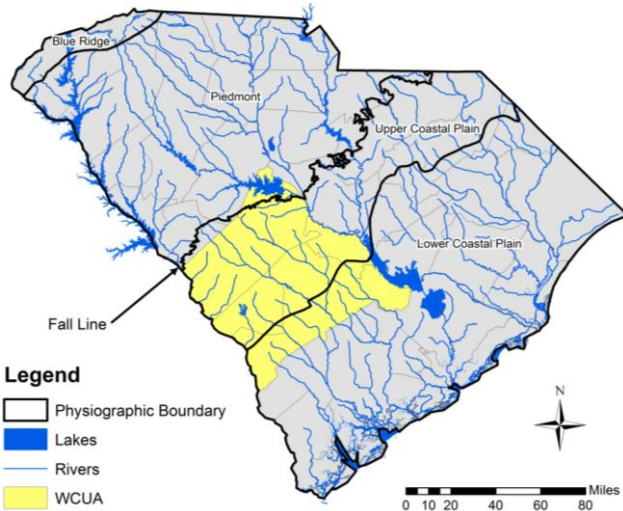
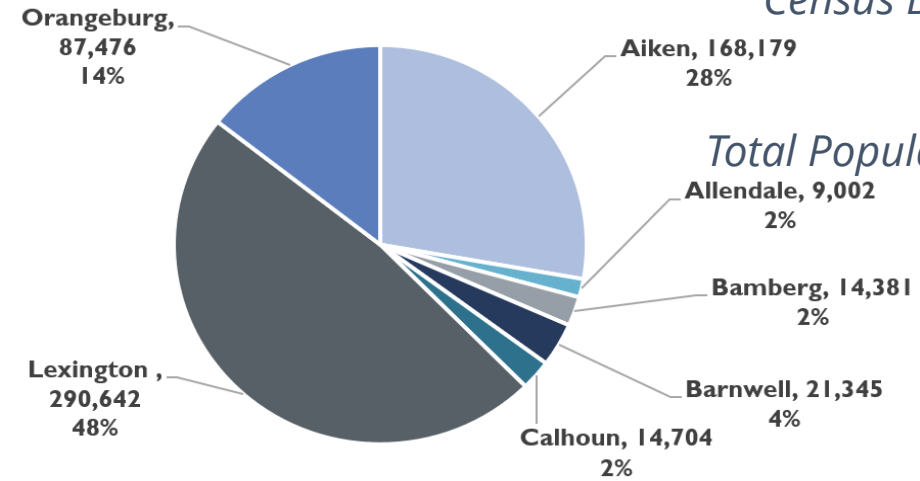
**Sustainable Use:** use of ground water in a manner that can be maintained for an indefinite time without causing adverse environmental, economic, or social consequences



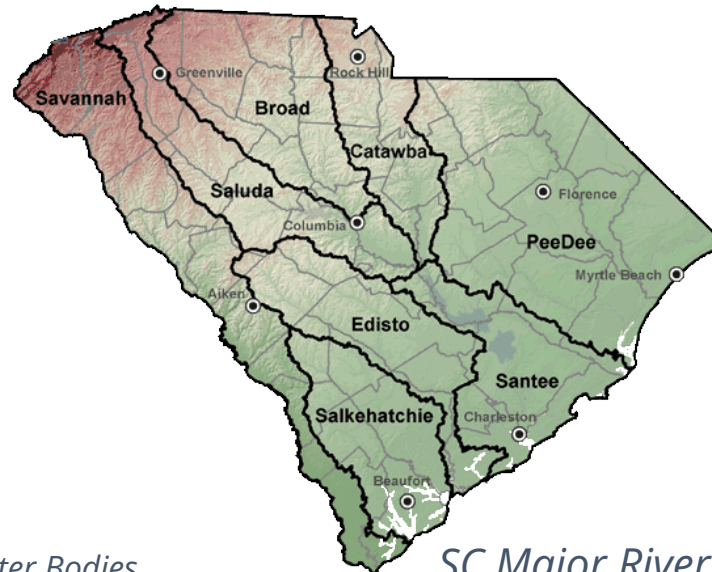
South Carolina Council of Governments (COG)



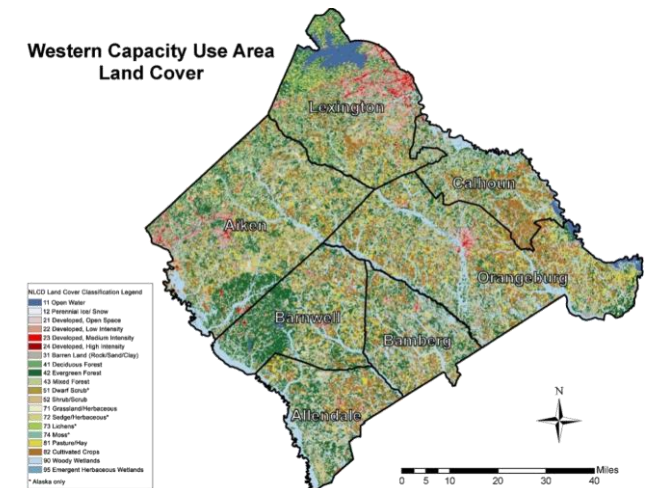
Population by County (U.S. Census Bureau, 2017)



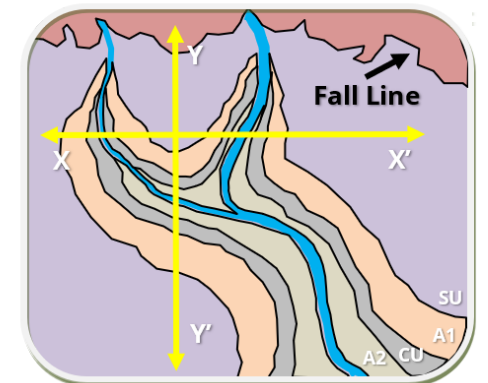
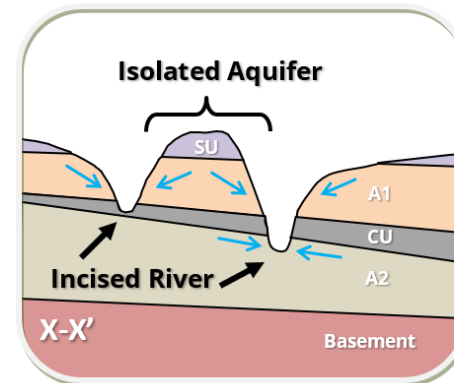
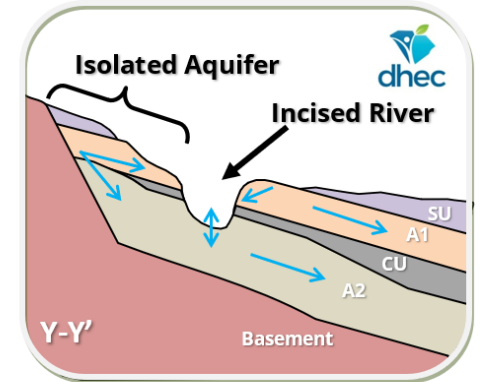
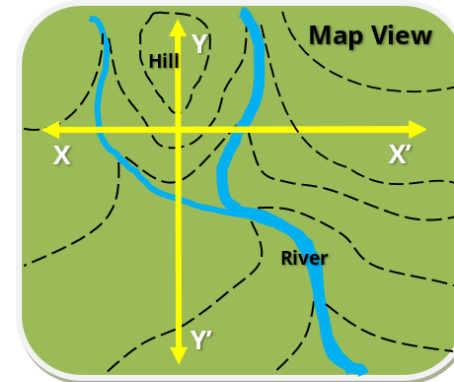
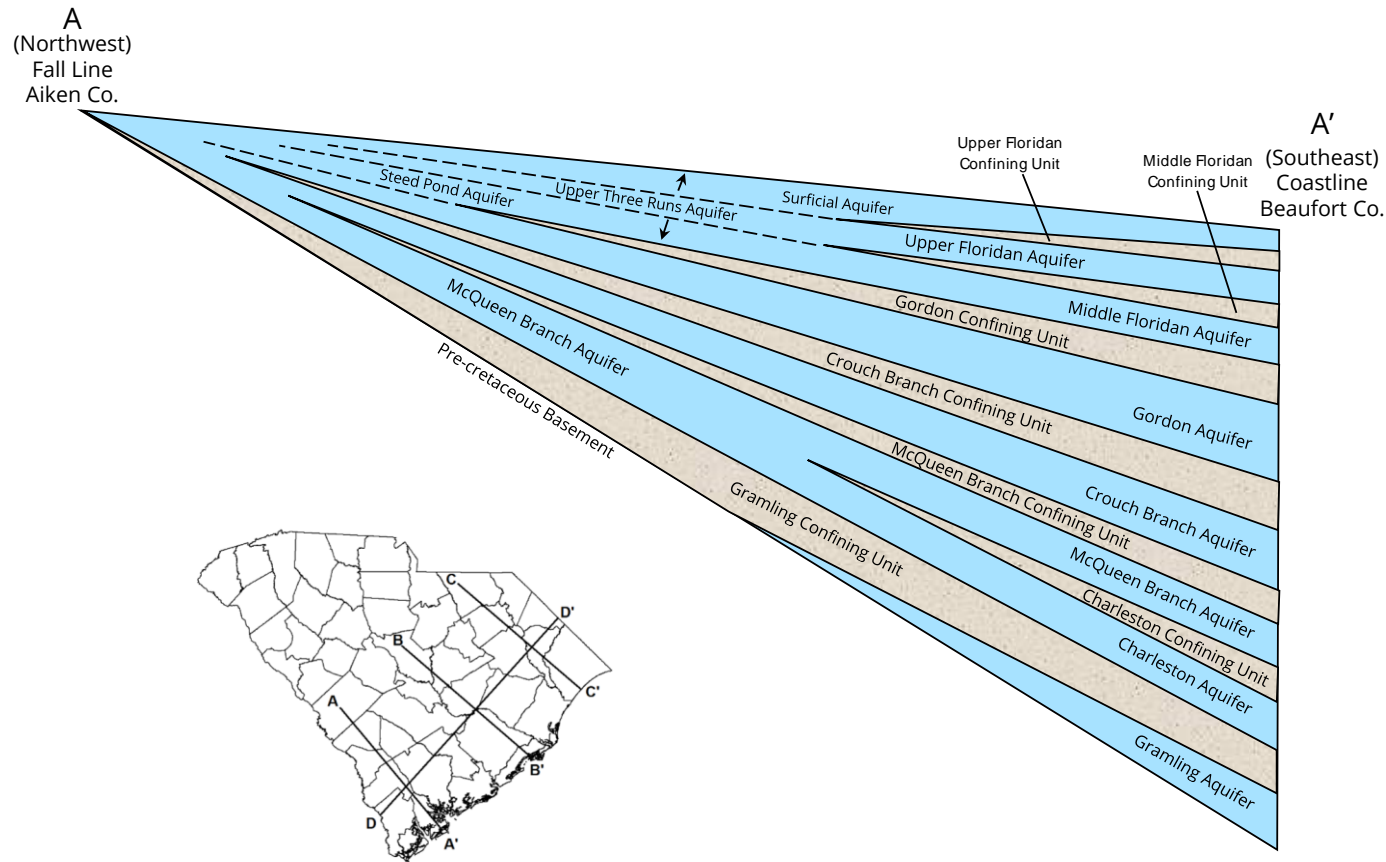
Physiographic Provinces of South Carolina and Major Water Bodies



SC Major River Basins



# Hydrogeologic Setting



*Incising Rivers Isolate Aquifer Units*

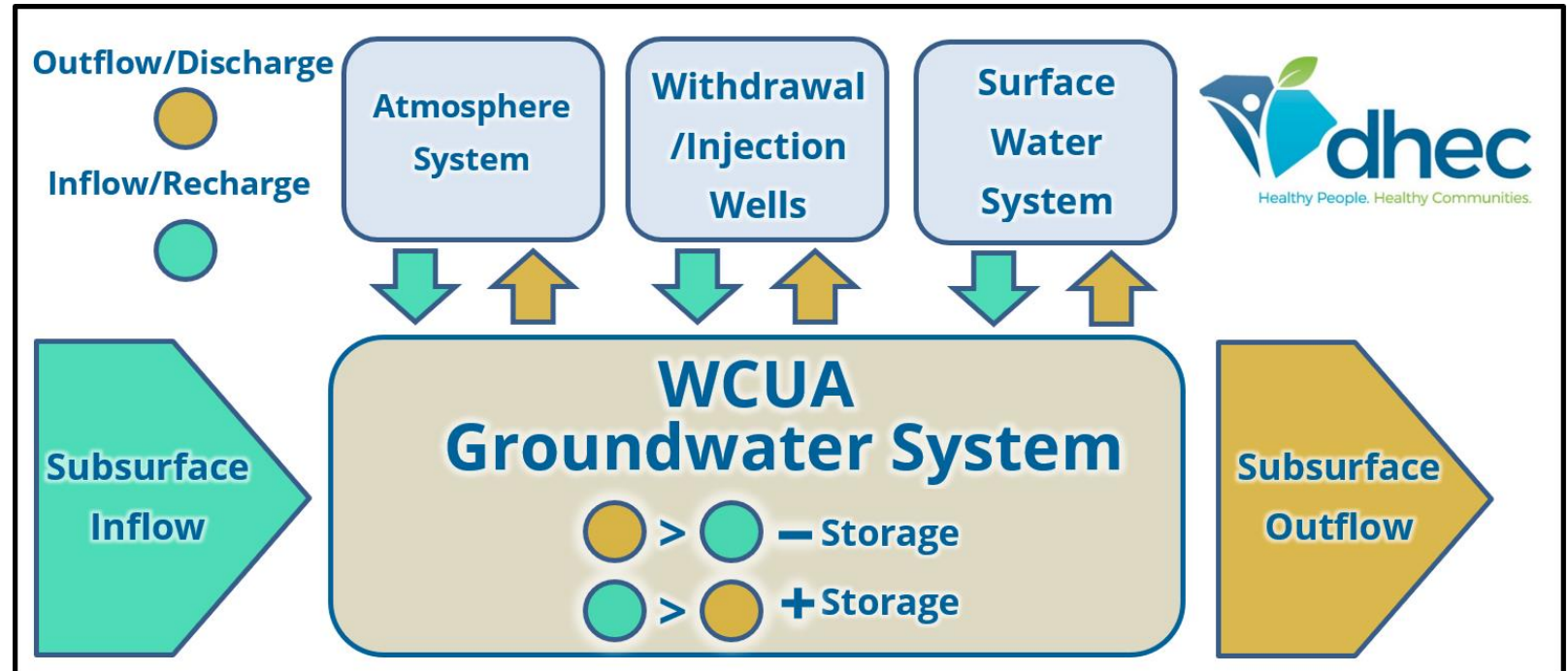
# Water Budget

## Inflow Examples:

- Precipitation
- N.C. Rivers
- Septic Fields

## Outflow Examples:

- Rivers to Ocean
- Evapotranspiration
- Natural Springs



$$\text{Inflow} - \text{Outflow} = \text{Change in Water Storage}$$

\*A water budget is a valuable tool; however, cannot be applied to individual permit decisions



## Current Demand

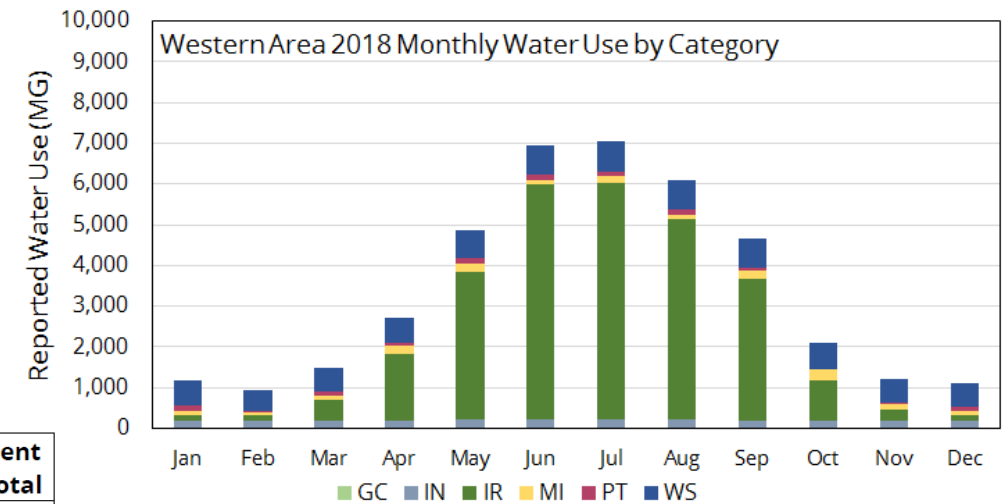
Table 2: WCUA: Current Number of Wells by Permit Category and County

Water Use Category	Aiken	Allendale	Bamberg	Barnwell	Calhoun	Lexington	Orangeburg	Totals
Aquaculture (AQ)	0	0	0	0	0	0	0	0
Golf Course (GC)	4	0	0	0	1	2	3	10
Industry (IN)	45	3	0	2	1	10	9	70
Irrigation (IR)	50	44	64	44	164	80	308	754
Mining (MI)	0	0	0	0	1	10	1	12
Hydro Power (PH)	0	0	0	0	0	0	0	0
Thermo Power (PT)	0	3	0	0	0	0	2	5
Nuclear Power (PN)	0	0	0	0	0	0	0	0
Water Supply (WS)	92	12	13	24	8	20	21	190
Other (OT)	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>191</b>	<b>62</b>	<b>77</b>	<b>70</b>	<b>175</b>	<b>122</b>	<b>344</b>	<b>1,041</b>

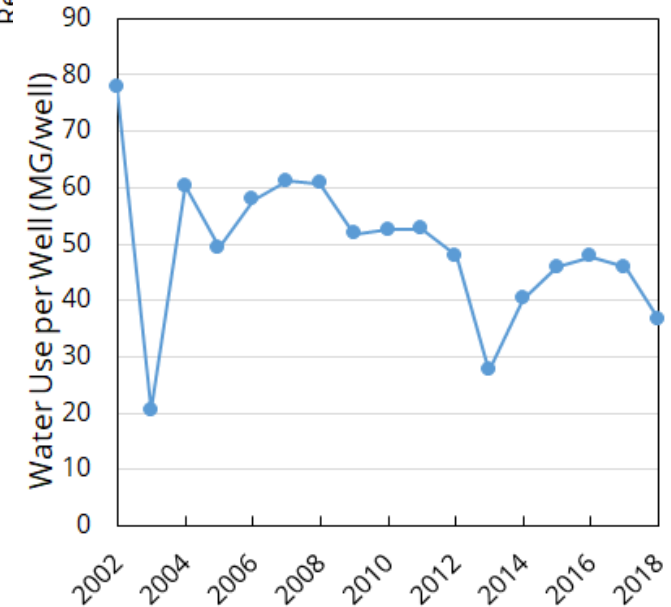
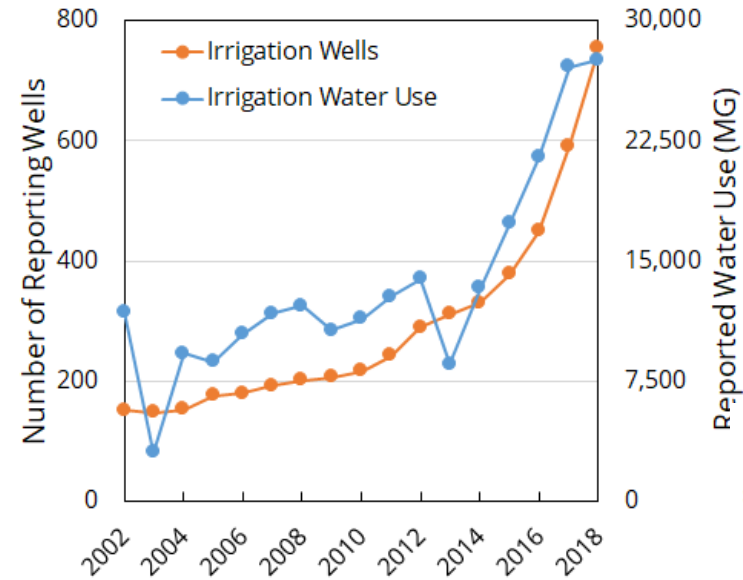
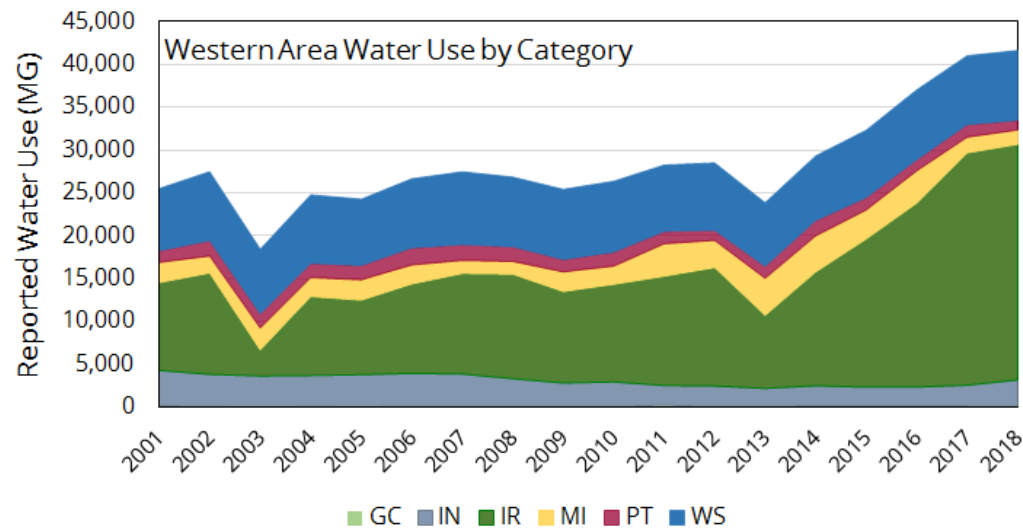
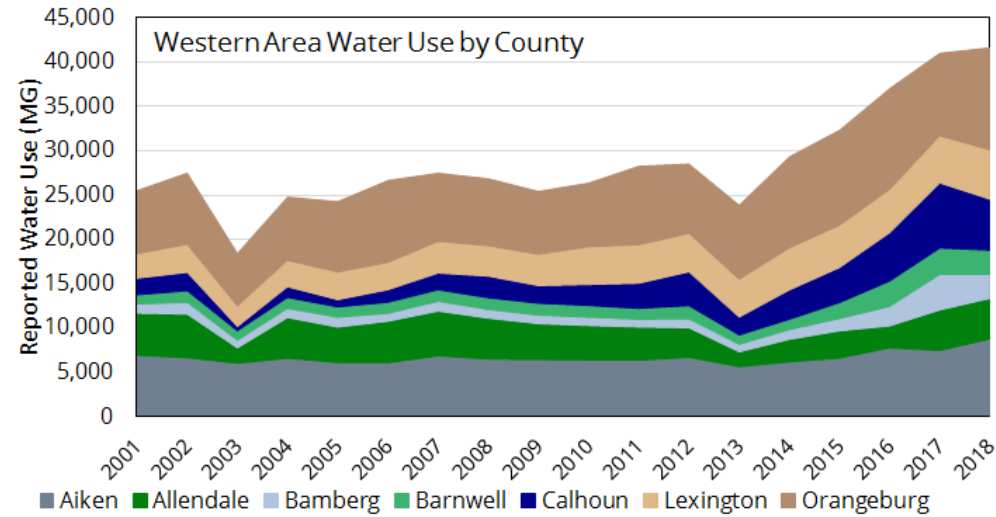
Table 3: WCUA: Reported Water Use\* by Permit Category and County, 2018

Water Use Category	Aiken	Allendale	Bamberg	Barnwell	Calhoun	Lexington	Orangeburg	Totals	Percent Of Total
Aquaculture	0	0	0	0	0	0	0	0	0%
Golf Course	17	0	0	0	1	21	78	117	0.3%
Industry	620	739	0	133	3	345	376	2,215	5.4%
Irrigation	2,269	3,223	2,372	1,578	5,349	3,480	9,267	27,539	67.5%
Mining	0	0	0	0	0	1,212	463	1,675	4.1%
Hydro Power	0	0	0	0	0	0	0	0	0%
Nuclear Power	0	0	0	0	0	0	0	0	0%
Thermo Power	0	136	0	0	0	0	982	1,118	2.8%
Water Supply	5,034	468	339	1,023	378	523	372	8,137	19.9%
Other	0	0	0	0	0	0	0	0	0%
<b>TOTAL</b>	<b>7,941</b>	<b>4,566</b>	<b>2,711</b>	<b>2,734</b>	<b>5,731</b>	<b>5,581</b>	<b>11,538</b>	<b>40,801</b>	<b>100%</b>
<b>Percent of Total</b>	<b>19.5%</b>	<b>11.2%</b>	<b>6.6%</b>	<b>6.7%</b>	<b>14.0%</b>	<b>13.7%</b>	<b>28.3%</b>	<b>100%</b>	

\*Water use is reported in Millions of Gallons (MG). For example, 9,210 is 9,210,000,000 gallons.



## Historic Demand/Past Use Comparison:



## Strategy #1: Establish a Comprehensive Groundwater Monitoring Program – Action Elements

- **Provide** accurate data on the amount and rate of groundwater level changes;
- **Provide** groundwater withdrawers with timely and accurate information to effectively manage withdrawal activities;
- **Establish** the correlation between groundwater pumping and water level changes, both on a local and regional scale; and
- **Guide** management efforts to minimize potential impairment of the aquifers and track progress in reversing water level declines.
- **Cooperate** with local, state, and federal partners to expand groundwater monitoring networks and sharing of well data;
- **Promote** partnerships in the state to identify wells that may be incorporated and of benefit to the well network; and
- **Identify** wells scheduled for abandonment that may be incorporated and of benefit to the well network.

## Strategy #2: Identify Geographic Areas of Concern and Level/Reduce Pumping Where Appropriate

- **Reduce/Level** groundwater withdrawals in areas of concentrated pumping;
- **Reduce/Level** groundwater withdrawals in areas where it is found to be in the public interest or general welfare, or to protect the water resource;
- **Utilize** other available freshwater aquifers than those currently used;
- **Utilize** conjunctive use of aquifers, or waters of less desirable quality, where water quality of a specific character is not essential;
- **Utilize** the groundwater model of the coastal aquifers that has been developed by the USGS and SC DNR to determine the potential for adverse effects;
- **Prohibit** the hydraulic connection of aquifers that could result in deterioration of water quality in freshwater aquifers;

## Strategy #2: Identify Geographic Areas of Concern and Level/Reduce Pumping Where Appropriate

- **Implement** abandonment of wells, which will be filled with cement grout, plugged, and sealed;
- **Implement** abandonment of wells that have penetrated zones of undesirable water quality where such wells are found to cause contamination of freshwater aquifers where undesirable water quality is defined as not meeting the standards for Class GB Waters as listed in *Water Classifications & Standards*, R.61-68.H.9;
- **Implement** construction and use of observation or monitoring wells;
- **Implement** reasonable and practical methods to conserve and protect the water resources and to avoid or minimize adverse effects of the quantity and quality of water available to persons whose water supply has been materially reduced or impaired as a result of groundwater withdrawals; and
- **Implement** such other necessary and appropriate control or abatement techniques as are technically feasible.



## Strategy #3: Review Permit Applications Based on Demonstrated Reasonable Use

- **Provide** appropriate documentation that the proposed water use is a beneficial use of the resource and necessary to meet the reasonable needs of the applicant;
- **Describe** in detail the applications for which the water is being withdrawn and approximate quantities utilized in each application;
- **Identify** the aquifer(s) currently utilized and the hydrogeologic (groundwater quality, specific capacity/yield, etc.) factors for utilization, and if a less utilized aquifer is suitable to meet the facility's need;
- **Identify** additional or alternate sources of water, including surface water, effluent, or recycled water, among others, suitable to meet the needs of the applicant and supplement, minimize, or eliminate groundwater sources;
- **Identify** reasonable and appropriate conservation methods or practices that maximize efficiency of current water use and reduce current water demand; and
- **Identify** any existing or anticipated adverse effects on other groundwater withdrawers, including public use, and strategies to eliminate or minimize these effects.

## Strategy #4: Establish an Educational Plan for the General Public and Existing Groundwater Withdrawers – Action Elements

- **Provide** audience-based public education and outreach programs;
- **Provide** best available information on current systematic and industry-based standards;
- **Engage** with state and local governments;
- **Establish** and **promote** conservation measures through:
  - Enhanced water use efficiency;
  - Identification of water losses and establishment of corrective actions; and
  - Preparation for water shortages and implementation of appropriate responses.

## Strategy #5: Manage Through Regulation and Planning

As data are developed on the groundwater resources of the designated Capacity Use Areas, the regulations will be reviewed to ensure adequate adherence to the legislative declaration of policy laid out in Title 49, Chapter 5-20.

As the results of the modeling efforts and the updates to the State Water Plan become available, they will help inform potential regulatory and policy changes and will be incorporated into this Groundwater Management Plan.

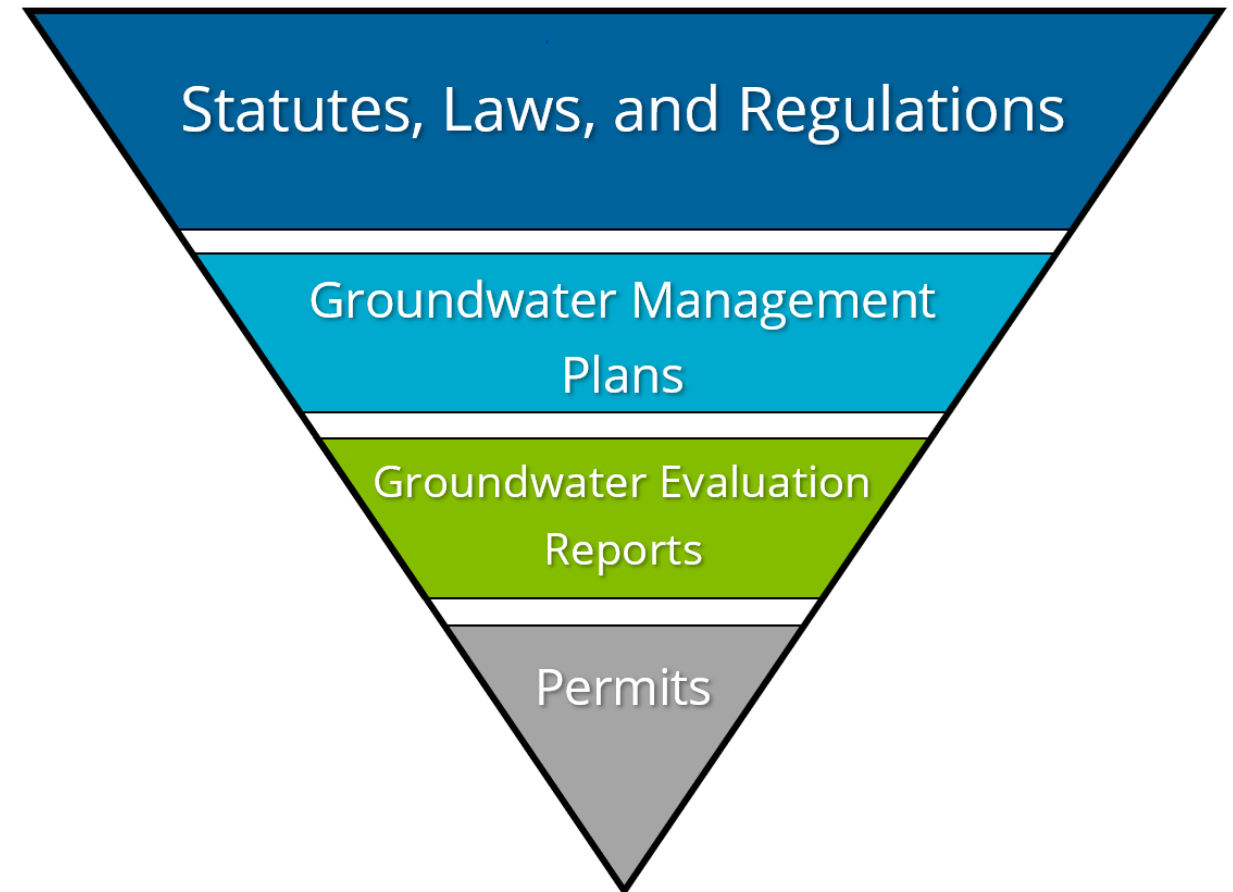
## Strategy #6: Establish a Plan for Continual Stakeholder Engagement and Awareness of Groundwater Development

- **Maintain** the Stakeholder Workgroup that is diverse in geographic and type-use representation to serve in an advisory role and as a partner for engagement within the WCUA communities;
- **Provide** and **maintain** the Stakeholder Workgroup to receive direct notice of proposed permitting actions during the public notice period;
- **Provide** the Stakeholder Workgroup a forum for SC DHEC to present each quinquennial draft GMP Report, receive comments for consideration as the draft is finalized, and evaluate whether considerations are needed for an updated GMP and a reconvening of the Stakeholder Workgroup to do such; and
- **Provide** the Stakeholder Workgroup an annual update of water use and conditions in the WCUA.

# Groundwater Management Plan Reports

Every 5 years, total annual groundwater withdrawals will be compiled and compared to available aquifer potentiometric maps. The report will include the following information:

- Listing of all permitted withdrawers, permitted withdrawal limits, and average groundwater withdrawal;
- Evaluation of withdrawal by category and by aquifer; and
- Identification of the aquifer(s) and area(s) with observed and potential adverse effects and all withdrawers utilizing the aquifer(s).



(x) ACTION/DECISION  
( ) INFORMATION

Date: November 7, 2019

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

From: Bureau of Health Facilities Licensing


**Re: Notice of Proposed Regulation Amending R.61-93, *Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence*.**

## **I. Introduction**

The Bureau of Health Facilities Licensing ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-93, *Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence*, for publication in the November 22, 2019, *South Carolina State Register* ("State Register"). Legal authority for these amendments resides in S.C. Code Section 44-7-260 *et seq.*, which requires the Department of Health and Environment Control ("Department") to establish and enforce basic standards for the licensure, maintenance, and operation of health facilities and services in order to ensure the safe and adequate treatment of persons served in this state. In accordance with S.C. Code Section 1-23-120, General Assembly review is required.

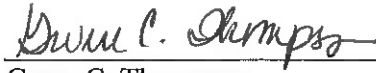
## **II. Facts**

1. The Bureau proposes amending R.61-93 to update provisions in accordance with current practices and standards. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. Proposed revisions also include changing the name of the regulation and facility type to "Facility for Chemically Dependent or Addicted Persons." The Bureau proposes this change to parallel the statutory term for this facility type. The facility type may also be referred to as "Substance Use Disorder Facilities" based on current terminology within the provider community. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-93 was last amended in 2015.
2. The Department had a Notice of Drafting published in the March 22, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received 89 public comments from various parties by April 22, 2019, which was the closing date of the public comment period. Attachment C presents a summary of the public comments received and the Department's responses to them.
3. The Bureau held stakeholder meetings on April 1, 2019, and August 6, 2019. The Bureau considered stakeholder feedback in formulating the proposed amendments herein.
4. Appropriate Department staff conducted an internal review of the proposed amendments on August 7, 2019.



Angie Smith

Interim Chief of Health Facilities Licensing



Gwen C. Thompson

Interim Director of Health Regulation

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the March 22, 2019, *State Register*
- C. Summary of Public Comments Received and Department Responses

## ATTACHMENT A

### STATE REGISTER NOTICE OF PROPOSED REGULATION FOR REGULATION 61-93, *Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence*

November 7, 2019

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

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

Statutory Authority: 1976 Code Sections 44-7-260 *et seq.*

61-93. Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence.

#### **Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-93 to update provisions in accordance with current practices and standards. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. Proposed revisions also include changing the name of the regulation and facility type to “Facility for Chemically Dependent or Addicted Persons.” The Department proposes this change to parallel the statutory term for this facility type. The facility type may also be referred to as “Substance Use Disorder Facilities” based on current terminology within the provider community. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to 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.

A Notice of Drafting was published in the March 22, 2019, *South Carolina State Register*.

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

The title of this regulation was amended to comply with current statutory requirements.

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

The table of contents was updated to reflect the changes in the section numbers within the regulation.

#### **SECTION 100 – DEFINITIONS AND LICENSURE**

##### **101. Definitions.**

101 recodified to maintain alphabetical organization.



101.A added definition for Abuse to create consistency with other regulations.

101.B amended definition for Administering Medication to create consistency with other regulations.

101.C amended definition for Administrator to create consistency with other regulations.

101.D amended definition for Adult to create consistency with other regulations.

Former 101.D definition for Advanced Practice Registered Nurse removed due to 101.H being amended and recodified.

101.F definition for Annual amended to create consistency with other regulations.

Former 101.G definition for Architect removed due to being unnecessary.

101.G definition for Assessment amended to create consistency with other regulations.

101.H definition for Authorized Healthcare Provider amended to create consistency with other regulations.

101.I definition for Blood Assay for Mycobacterium tuberculosis added to create consistency with other regulations.

101.J definition for Chemical Dependency added because it supports the facility as defined per LLR statute.

Former 101.J definition for Client removed due to updating language to Patient.

Former 101.K definition for Client Room removed due to updating language to Patient.

101.M definition for Contact Investigation added to create consistency with other regulations.

101.N definition for Controlled Substance added for current terminology and consistency with other regulations.

101.O definition for Counselor amended to create consistency with other regulations and current terminology.

Former 101.O definition for DSS removed due to not being necessary for this regulation.

Former 101.Q definition for Delivery of Medications removed to use current terminology and create consistency with other regulations.

Former 101.R definition for Detoxification removed due to current terminology and per public comment.

Former 101.S definition for Detoxification Facility removed due to current terminology. The new term is Withdrawal Management Facility.

101.R definition for Direct Care Staff amended to reflect current industry practices and terminology.

101.S definition for Discharge amended to create consistency with other regulations.

Former 101.W definition for Dispensing Medication removed due to not being utilized in the regulation.

101.T definition for Elopement added to clarify what Elopement is in the Reporting section of the regulation per public comment.

Former 101.X definition for Existing Facility removed due to being defined within the regulation.

101.U definition for Exploitation added to create consistency with other regulations.

101.V definition for Facility for Chemically Dependent or Addicted Persons amended to be in line with current LLR statute and provider community terminology.

101.X definition for Health Assessment amended for clarity.

101.Y definition for Individual Plan of Care added due to current terminology per public comment. This definition replaces the formerly used term Individual Treatment Plan and creates consistency with other regulations.

Former 101.BB definition for Initial License removed due to being redundant and definition moved into regulation language.

101.AA definition for Inspection amended to create consistency with other regulations.

Former 101.FF definition for Individualized Treatment Plan removed due to term changed to Individual Plan of Care.

101.CC definition for Interdisciplinary Team added for clarity.

101.DD definition for Investigation amended to create consistency with other regulations.

101.EE definition for Legend Medication added to create consistency with other regulations and upon recommendation from the Bureau of Drug Control.

101.FF definition for License updated to create consistency within this regulation and to reflect current terminology.

Former 101.HH definition for LAAM removed due to public comment related to current terminology.

101.FF definition for License amended to reflect current terminology.

101.GG definition for Licensed Nurse amended to create consistency with other regulations and South Carolina LLR and removed the different levels of nurse licensing.

101.HH definition for Licensee amended to create consistency with other regulations and to reflect updated terminology.

101.II definition for Medical Withdrawal Program added from definition in former 101.S.1 to reflect current terminology per public comments.

101.JJ definition for Medication added to create consistency with other regulations.

101.KK definition for Medication Unit added for clarity and to reflect updated provider terminology and practices.

Former 101.NN definition for Parents with Children Facilities removed due to current terminology. This is now referred to as Patient Facilities providing services for mothers with children.

Former 101.OO definition for Narcotic Treatment Program changed to be in line with more common, current terminology that better describes this type of program and matches the language used in the SC Health Plan. This is now referred to as an Opioid Treatment Program.

101.NN definition for Neglect added to create consistency with other regulations.

Former 101.PP definition for New Facility removed to being defined within the regulation.

101.OO definition for Non-Legend Medications added create consistency with other regulations.

101.PP definition for Opioid Treatment Program added due to current terminology and per public comment. This was formerly referred to as an NTP.

101.QQ definition for Outpatient Facility amended due to current terminology.

101.RR definition for Outpatient Services amended to reflect a current definition.

101.SS definition for Patient added to reflect current terminology, replaces Client.

Former 101.SS definition for Peak Hours removed due to not being necessary for this regulation.

Former 101.TT definition for Pharmacist removed since the definition is already defined by LLR.

101.TT definition for Physical Examination amended due to current terminology.

Former 101.VV definition for Physician removed as this term is already defined and included in the definition for Authorized Health Care Provider.

Former 101.WW definition for Physician's Assistant removed as this term is already defined and in common use.

101.UU definition for Primary Counselor amended to reflect current terminology.

Former 101.YY definition for Psychoactive Substance Abuse or Dependence removed due to current terminology.

Former 101.ZZ definition for Psychoactive Substance Abuse or Dependence Treatment Facility removed due to current terminology.

Former 101.BBB definition for Ramp removed due to redundancy.

Former 101.CCC definition for Related/Relative removed due to being unnecessary.

101.WW definition for Repeat Violation amended to create consistency in regulation.

101.XX definition for Residential Facility added to reflect current terminology.

101.YY definition for Residential Treatment Program amended to reflect current terminology.

101.AAA definition for Satellite amended to reflect current industry practices and to remove regulation from definitions.

101.BBB definition for Self-Administration added to create consistency with other regulations.

101.CCC definition for Social Withdrawal Management amended from former 101.S.2 to reflect current terminology.

101.EEE definition for Substance Use Disorder added to reflect current provider community terminology.

101.FFF definition for Suspension of License amended to create consistency with other regulations.

Former 101.JJJ definition for Treatment removed due to the term not being needed.

101.GGG definition for Tuberculosis Risk Assessment added to create consistency with other regulations.

Former 101.KKK definition for Twenty-Four Hour Facility removed due to current terminology. The new term used is Residential Facility.

101.HHH definition for Volunteer added to create consistency with other regulations

101.III definition for Withdrawal Management added due to current terminology.

## **102. References.**

Section 102 removed due to redundancy.

## **102. License Requirements. (Former 103 License Requirements)**

Section 102 recodified from 103 and amended to create consistency with other regulations.

102.A amended to reflect current terminology and create consistency with other regulations.

102.B amended to reflect current terminology and create consistency with other regulations.

102.C amended to reflect current terminology, create consistency with other regulations, and add clarity.

102.D added to meet the needs of changing industry practices and to provide clarity on the regulation of Satellite Facilities.

101.E (formerly 103.D) amended to reflect current terminology and create consistency with other regulations.

102.F (formerly 103.E) amended to reflect current terminology.

102.EXCEPTION recodified to Section 1402 to create consistency with other regulations.

102.G. (formerly 103.F) amended to reflect current terminology and create consistency with other regulations.

102.H (formerly 103.G) amended to create consistency with other regulations and reflect current terminology.

102.I (formerly 103.H) amended for clarity.

102.J (formerly 103.I) amended to create consistency with other regulations.

Former 103.J recodified to 102.L and amended for clarity and to create consistency with other regulations.

102.K added to create consistency with other regulations.

102.L recodified from former 103.J.

102.M added to create consistency with other regulations.

102.N (formerly 103.K) amended to include language clarifying that past fees are to be paid before renewal of license is approved.

102.O (formerly 103.L) amended to create consistency with other regulations.

Former 103.M removed due to being unnecessary.

Former 103. N removed due to creation of 102.Q.

102.P added to create consistency with other regulations.

102.Q added to included language regarding variances to the regulation.

## **SECTION 200 – ENFORCEMENT OF REGULATIONS** (former SECTION 200 ENFORCING REGULATIONS)

### **201. General.**

### **202. Inspections and Investigations.**

Section 202 amended to create consistency with other regulations.

### **203. Consultations.**

## **SECTION 300 – ENFORCEMENT ACTIONS**

Section 300 amended to create consistency with other regulations.

### **301. General.**

### **302. Violation Classifications.**

## **SECTION 400 – POLICIES AND PROCEDURES**

Section 400 amended to create consistency with other regulations, current terminology.

## **SECTION 500 – STAFF AND TRAINING (formerly SECTION 500 STAFF)**

### **501. General (II).**

Section 501.A amended to current terminology language and to create consistency with other regulations.

Former Section 501.B recodified to Section 502 to create consistency with other regulations.

Former Section 501.C recodified to Sections 503, 504, and 505.

Former Section 501.D recodified to 506.A.

Former Section 501.E recodified to 1002.E.

Section 501.B (formerly 501.F) amended to current terminology and for clarity.

Section 501.C (formerly 501.G) amended to use current terminology and create consistency with other regulations.

Section 501.D added to create consistency with other regulations.

### **502. Administrator (II).**

Section 502 recodified from former Section 501.B to create consistency with other regulations.

### **503. Staffing for Residential Treatment Programs.**

Section 503 recodified from former Section 2602 to create clarity as to which regulations are required for Residential Facilities providing Residential Treatment Programs per public comment request. Also amended to reduce redundancy. Section 503 recodified content amended to remove “designated client” per public comment. Recodified content also amended to clarify daytime and evening hours and per public comment.

### **504. Staffing for Withdrawal Management Programs.**

Section 504 recodified from former Section 2703 to create clarity as to which regulations are required for Residential Facilities providing Withdrawal Management per public comment request. Also amended to reduce redundancy and to create consistency with other regulations.

### **505. Staffing for Opioid Treatment Programs (II).**

Section 505 recodified from Section 2816 to create clarity as to which regulations are required for Outpatient Facilities providing Opioid Treatment Program services per public comment request.

Section 505.C recodified content amended to create consistency with other regulations. Also amended regarding nurse staffing requirements per public comment.

### **506. Inservice Training (II).**

Section 506 recodified from 502.

Section 506.A added from R.61-3.605 to create consistency with other regulations.

Section 506.B (formerly 502.A) amended to reflect current terminology and amended to create consistency with other regulations and per public comment.

Section 506.C (formerly 502.B) amended to reflect current terminology and create consistency with other regulations. Added content from 2816.E.

Section 506.D recodified from 2816 and amended for clarity and to meet current industry practices.

Section 506.E (formerly 506.C) amended to create consistency with other regulations.

### **507. Health Status (I).**

Section 507 recodified from 503 and amended to use current terminology and create consistency with other regulations.

### **508. Counselors (II).**

Section 508 recodified from 504.

Section 508 amended to reflect current terminology and consistency with other regulations and per public comment.

Section 508.A amended to create clarity. Partial content moved to 508.B.

Section 508.B added to create clarity.

Section 508.B.3 amended per public comment requesting current terminology and practices.

Section 508.F added to create consistency with other regulations.

## **SECTION 600 – REPORTING**

### **601. Accidents and Incidents (II).**

Section 601 amended to create consistency with other regulations.

Section 601.A amended to create clarity per public comment.

Section 601.B amended to create two sections: Section 601.B and proposed 601.C to create clarity per public comment. Also amended to remove unnecessary items from the list. Also amended to remove Fire from the list as it is addressed in Section 602.

Section 601.B.4 added to include “Overdose Reversal (naloxone)” as an accident/incident per public comment.

Section 601.C added content removed from 601.B for clarity.

**602. Fire and Disasters (II)**

Section 602 amended to reflect current terminology, create consistency with other regulations, and for clarity.

**603. Communicable Diseases and Animal Bites (I).**

Section 603 amended to create consistency with other regulations and for clarity.

**604. Administrator Change.**

Section 604 amended to create consistency with other regulations and for clarity.

**605. Joint Annual Report.**

Section 605 amended to reflect current terminology and consistency with other regulations.

**606. Accounting of Controlled Substances (I).**

Section 606 amended to reflect current terminology and create consistency with other regulations.

**Former 607. Emergency Placements.**

Former Section 607 recodified to 1402.B

**607. Facility Closure. (Former 608)**

Section 607.A amended to create consistency with other regulations.

Section 607.B amended to create two sections: Section 607.B and proposed section 607.C for clarity. Also amended to create consistency with other regulations.

**608. Zero Census.****SECTION 700 – PATIENT RECORDS (formerly SECTION 700 CLIENT RECORDS)**

Section 700 amended to reflect current terminology.

**701. Content (II).**

Section 701.A amended to reflect that only Residential Facilities are required to maintain records of diet per public comment and to reflect current terminology. Also amended to reflect the use of electronic media per public comment.

Section 701.B amended to set policies and procedures regarding the use of electronic and optical means of record-keeping to be consistent with other regulations.

Section 701.C (formerly 701.B) amended to reflect current terminology, create consistency with other regulations, and for clarity.



Former Sections 701.C and 701.D recodified to proposed Sections 706 and 707.

Former Section 701 EXCEPTION removed due to proposed Sections 706 and 707.

Former Section 701.E removed and added content to proposed Section 706.

Former Section 701.F removed and recodified to proposed Section 701.C.8.

Section 701.D added to create consistency with other regulations and reflect current terminology and procedures.

**Former 702 Authentication of Signatures** removed due to redundancy with 701.D.

## **702. Screening (I).**

Section 702.A and 702.B added to create consistency with other regulations and to require documentation of all screening.

Section 702.C recodified from former Section 2701.A and amended to be consistent with other regulations.

Section 702.D recodified from former Section 2702.A and amended to be consistent with other regulations.

Section 702.E recodified from former Section 2807.B and amended to reflect current terminology per public comment and current industry practice.

## **703. Assessments for Residential Treatment Programs (II).**

Section 703 recodified from former Section 2604 and amended per public comment on days required to complete and file the written assessment.

## **704. Assessment for Withdrawal Management Programs (II).**

Section 704 recodified from former Section 2705.

## **705. Bio-Psycho-Social Assessment Opioid Treatment Program (II).**

Section 705 recodified from former Section 2811, amended to reflect the current terminology “Bio-Psycho-Social Assessment” per public comment and for clarity. Section 705 also amended content from Section 2811 to reflect a change in the number of days in which an assessment must be completed per public comment.

## **706. Individual Plan of Care (II).**

Section 706 added from former Section 701.C and 701.D, and amended to reflect current terminology to “Individual Plan of Care” replacing “ITP.”

Section 706.A added from former Section 2605.

Section 706.B added from former Sections 2706 and 2702.B, and amended to reflect current terminology and consistency with other regulations.

### **707. Individual Plan of Care for Opioid Treatment Program (II).**

Section 707 added from former Section 2812 and amended to reflect that the IPOC shall be completed within thirty (30) calendar days of the assessment per public comment.

### **708. Record Maintenance.**

Section 708 recodified from 703 and amended to create consistency with other regulations.

Former Section 703.D removed due to being unnecessary.

Section 708.F recodified from former Section 703.H.

708.H removed due to creation of Section 703.F.

708.H added content from 708. EXCEPTION.

### **SECTION 800 – ADMISSION (I)**

Section 800 added for organizational consistency with other regulations. (Former SECTION 800 CLIENT CARE/TREATMENT/SERVICES recodified to SECTION 900).

#### **801. General.**

Section 801 recodify from former Section 801.

#### **802. Residential Facilities.**

Section 802 recodified from former Section 2603 and 2704, and amended for clarity, consistency with other regulations, and to reflect current terminology.

#### **803. Opioid Treatment Program.**

Section 803 recodified from former Section 2807 and amended to reflect current terminology per public comment.

### **SECTION 900 – PATIENT CARE, TREATMENT, AND SERVICES (Former SECTION 800 CLIENT CARE/TREATMENT/SERVICES)**

Section 900 recodified from former Section 800 to be in line with the organizational structure of the proposed Section 900.

#### **901. General.**

Former 801.A recodified to proposed Section 801.

Section 901.A (formerly 801.B) amended to create consistency with other regulations and for clarity.

Former Section 801.C recodified to Proposed Section 902A.-C.

Section 901.C (formerly 801.E) amended for clarity.

Former 801.F recodified to 902.D.

Section 901.D (formerly 801.G) amended to create consistency with other regulations.

Former 801.H recodified to 1001.B.

## **902. Residential Facilities (II).**

Section 902.A-C recodified from former Section 801.C and amended for clarity.

Section 902.D recodified from former Section 801.F.

Section 902.E recodified from former Section 2601.B and amended to remove unnecessary regulation.

Section 902.F.1 recodified from former Section 2701.

Section 902.F.2 recodified from former Section 2702.

Section 902.F.3 recodified from former Section 2701.E

## **903. Opioid Treatment Program.**

Section 903.A recodified from former Section 2802 and amended Section 903.A.1 to remove time regulations per public comment. Also amended Section 903.A.3 to remove “appropriate to his/her needs” to “as based on the assessment” per public comment and Section 903.A.3.a to include Hepatitis per public comment.

Section 903.B recodified from former Section 2803 and amended 903.B.1 to reflect current terminology per public comment. Also amended 903.B.2 for clarity due to public comment. Amended 903.B.3 for clarity due to public comment.

Section 903.C recodified from former Section 2804 and amend to reflect current terminology. Amended Section 903.C.2 for clarity due to public comment. Section 903.C.4 amended to reflect current terminology per public comment. Also amended to specify documentation regulations per public comment.

## **904. Substance Use Testing for Opioid Treatment Programs (II).**

Section 904 recodified from former Section 2809 and amended to clarify former Sections 2809.F and 2809.G’s dependent relationship per public comment. Also amended to allow for other types of testing per public comment.

Section 904.E amended to provide clarity.

## **905. Orientation for Patients Admitted to an Opioid Treatment Program.**

Section 905 recodified from former section 2810 and amended 905.J for clarity and current terminology.

Section 905.J amended to include other medicine types per public comment.

## **906. Transportation.**

Section 906 amended to reflect current terminology.

#### **907. Safety Precautions and Restraints (I).**

Section 907.A amended to create consistency with other regulations and to reflect current terminology.

Former Sections 907.B and 907.C removed due to being repetitious of content in 907.A.

Former Section 907.D recodified to 907.C.

Sections 907.B, 907.C, 907.D recodified from former 907.B-D and amended to create consistency with other regulations.

#### **908. Services for Minors (II). (Formerly 804 Treatment of Minors)**

Former Section 804.A recodified to proposed Section 802.B.1 and amended according to current industry practice.

Section 908.A-C amended to reflect updated terminology and industry practice.

Section 908.Exception recodified to Section 803.B and amended according to current industry practice.

908.D added to reflect current industry practices.

#### **909. Referral Services.**

Section 909 recodified from previous Section 805 and amended to reflect current terminology and for clarity.

### **SECTION 1000 – PATIENT RIGHTS AND ASSURANCES (Former SECTION 900 CLIENT RIGHTS AND ASSURANCES)**

#### **1001. Informed Consent (II).**

Section 1001 amended to create consistency with other regulations.

Section 1001.A.4 recodified from former Section 2810.J.

Section 1001.B recodified from former Section 801.H.

#### **1002. Patient Rights (II).**

Section 1002 amended to reflect current terminology and to create consistency with other regulations.

Section 1002.A.5 amended for clarity per public comment.

Section 1002.B amended for clarity per public comment.

Section 1002.E added from former Section 501.E.

#### **1003. Discharge and Transfer.**

Section 1003.A amended to reflect current terminology.

Section 1003.B removed to create consistency with other regulations.

Section 1003.C (formerly 1003.B) amended for clarity.

Section 1003.C added from former Section 2817.D.

## **SECTION 1100 – PATIENT PHYSICAL EXAMINATION (Former SECTION 1000 CLIENT PHYSICAL EXAMINATION)**

Section 1100.A amended to reflect current terminology, consistency with other regulations, add clarity, remove redundancy, and to incorporate the Exception. Section 1100.A further amended to provide clarity that the regulation in this section only applies to Residential Facilities, per public comment.

Section 1100.A.5 added to create consistency with other regulations and for clarity.

Former Section 1000.B. removed to create consistency with other regulations.

Former Section 1000.C recodified to 1703.

Section 1100.B (formerly 1001.D) amended for clarity.

Section 1100.C added from former Section 2808 and amended to reflect current provider terminology and practices.

Section 1100.C.3 added per public comment to allow for situations in which blood draws are unsuccessful.

Section 1100.D (Formerly 1000.E) amended to reflect current terminology.

## **SECTION 1200 – MEDICATION MANAGEMENT (Former SECTION 1100 MEDICATION MANAGEMENT)**

### **1201. General (I).**

Section 1201 amended to reflect current terminology and consistency with other regulations.

### **1202. Medication Orders (I).**

Section 1202 amended to reflect current terminology.

Section 1202.C recodified from Former Section 2817.B.

### **1203. Administering Medication (I).**

Former Sections 1103.A-B removed due to creation of proposed 1203.A.

Section 1203.A recodified from former Section 1103.A. and 1103.B, and amended to create consistency with other regulations.

Section 1203.B added to create consistency with other regulations.

Section 1203.C recodified from former Section 2817.

Section 1203.D (formerly 1103.C) amended per public comment. Also amended to reflect current terminology and to partially incorporate Exception per public comment.

Section 1203.F recodified from former Section 1106.F and amended per public comment.

#### **1204. Pharmacy Services (I).**

Section 1204 amended to reflect current terminology and create consistency with other regulations.

Section 1204.B amended for clarity and to create consistency with other regulations.

#### **1205. Medication Containers (I).**

Section 1205.A amended to reflect current terminology and create consistency with other regulations.

Section 1205.B amended to reflect current terminology and to include documentation and signature by a pharmacist per public comment.

Section 1205.C amended to remove redundancy.

Section 1205.D amended for clarity and to remove unnecessary regulation per public comment.

#### **1206. Medication Storage (I).**

Section 1206 amended to reflect current terminology, create consistency with other regulations, and to remove unnecessary regulation.

Section 1206.A amended for clarity due to public comment.

Former Section 1106.D removed in order to create a new section addressing the content.

Section 1206.D created using content from former Section 1106.D and amended to include stocks of naloxone for emergency overdose with or without a specific prescription per public comment. Also amended to include regulation for stocking non-Patient specific Controlled Substances.

Section 1206.G amended to include rescue inhalers or EpiPens per public comment.

#### **1207. Disposition of Medications (I).**

Section 1207 amended to reflect current terminology.

#### **1208. Opioid Treatment Program Take-home Medication (II).**

Section 1208.A recodified from former Section 2817.C.1 and amended to strike “in oral liquid form” per public comment.

Section 1208.B-I recodified from former Section 2818 and amended to reflect current terminology per public comment.

#### **1209. Opioid Treatment Program Guest-Dosing (II).**

Section 1209 recodified from former Section 2819 and amended to reflect current terminology and create consistency with other regulations.

Section 1209.D added to allow possible guest dosing during natural disasters or emergencies per public comment.

#### **1210. Security of Medications (I).**

Section 1210 recodified from former Section 2820.

#### **1300 – MEAL SERVICE (II)**

Section 1300 added title to change the former Section 1200 to 1300 to create consistency with other regulations and to current terminology.

#### **1301. General (II).**

Section 1301 (formerly section 1201) amended to reflect current terminology and create consistency with other regulations. Also amended to clarify which facilities are required to provide food services per public comment.

#### **1302. Food and Food Storage (II).**

Section 1302 (formerly Section 1202) amended to create consistency with other regulations.

#### **Former Section 1203. Food Equipment and Utensils (II)**

Former Section 1203 removed due to being unnecessary.

#### **1303. Meals and Services.**

Former Section 1303.A-B removed due to not being relevant to all facilities.

Section 1303.A (former Section 1204.C) amended to reflect that only Residential Facilities serve food.

Former Sections 1204.D-E removed to create consistency with other regulations.

Section 1303.B (former Section 1204.F) amended to create consistency with other regulations.

#### **1304. Meal Service Personnel for Residential Facilities (II).**

Section 1304 (former Section 1205) title amended to reflect that this section only applies to Residential Facilities. Also amended to reflect current terminology and create consistency with other regulations.

#### **Former 1206. Diets.**

Section 1206 recodified to 1305.B.

**1305. Menus.**

Section 1305.B recodified from former Section 1206 and amended to create consistency with other regulations.

**Former 1208. Ice and Drinking Water.**

Section 1208 removed due to being unnecessary.

**Former 1209. Equipment.**

Section 1209 removed due to being unnecessary.

**FORMER SECTION 1300 MAINTENANCE**

Section 1300 recodified to SECTION 1600.

**FORMER SECTION 1400 INFECTION CONTROL AND ENVIRONMENT**

Section 1400 recodified to SECTION 1700.

**SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS  
(FORMER 1500 EMERGENCY PROCEDURES/DISASTER PREPAREDNESS)**

**Former 1501.General**

Former 1501 removed to create consistency with other regulations.

**1401. Disaster Preparedness (II).**

Section 1401(formerly Section 1502) amended to create consistency with other regulations.

Section 1401.C added to create consistency with other regulations.

Section 1401.D added for clarity and to create consistency with other regulations.

Former Section 1502.C recodified to proposed Section 1503.A.

**1402. Licensed Capacity During an Emergency (II).**

Section 1402 recodified from 103.EXCEPTION and amended for clarity and to create consistency with other regulations.

**1403. Emergency Call Numbers (II).**

**1404. Continuity of Essential Services (II)**

Section 1404 (formerly Section 1504) amended to reflect that the plan shall be written to create consistency with other regulations.



## **SECTION 1500 - FIRE PREVENTION (Former SECTION 1600 FIRE PREVENTION)**

### **1501. Arrangements for Fire Department Response (I).**

### **1502. Fire Response Training (I).**

Section 1502 amended to create consistency with other regulations.

### **1503. Fire Drills (I).**

Section 1503.A recodified from former Section 1502.C and amended to create consistency with other regulations.

Section 1503.B (former 1603.A) amended to create consistency with other regulations.

Former 1603.B recodified to proposed Section 1503.D.1.

Former Section 1603.C recodified to proposed Section 1503.D.2.

Section 1503.C added to create consistency with other regulations.

Section 1503.D.1 recodified from previous Section 1603.B.

Section 1503.D.2 recodified from previous Section 1603.C.

Former 1503.D and 1503.E removed due to being unnecessary.

## **SECTION 1600 – MAINTENANCE (former SECTION 1300 MAINTENANCE)**

SECTION 1600 – added title and content to create consistency with other regulations.

### **1601. General (II).**

Section 1601 recodified from former Section 1301 and amended to create consistency with other regulations.

### **1602. Preventive Maintenance of Emergency Equipment and Supplies (II).**

Section 1602 recodified from former Section 1302.

## **SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT (former SECTION 1400 INFECTION CONTROL AND ENVIRONMENT)**

### **1701. Staff Practices.**

Section 1701 recodified from former section 1401.

### **1702. Tuberculosis Risk Assessment and Screening (1).**

Section 1702 amended to reflect current CDC and Department guidelines for tuberculosis.

### **1703. Tuberculosis Screening for Patients (I).**

Section 1703 amended to reflect current CDC and Department guidelines for tuberculosis.

### **1704. Housekeeping (II).**

Section 1704 recodified from former Section 1405 and amended to clarify “harmful chemicals” and “safe storage” per public comment.

### **1705. Infectious Waste (I).**

Section 1705 recodified from former Section 1406.

### **1706. Pets (II).**

Section 1706 recodified from former Section 1407.

### **1707. Clean and Soiled Linen and Clothing (II).**

Section 1707 recodified from former Section 1408 and amended to clarify that this regulation is only for Residential Facilities per public comment.

## **SECTION 1800 – QUALITY IMPROVEMENT PROGRAM (Former SECTION 1700 QUALITY IMPROVEMENT PROGRAM)**

Section 1800 amended numerical organization from 1700 to 1800 to create consistency within this regulation. Also amended to reflect current terminology.

## **SECTION 1900 – DESIGN AND CONSTRUCTION (Former SECTION 1800 DESIGN AND CONSTRUCTION)**

### **1901. Codes and Standards.**

Section 1901 (formerly Section 1801) amended to create consistency with other regulations and clarity.

### **1902. Local and State Codes and Standards (II).**

Section 1902.A amended for clarity and to create consistency with other regulations.

Former Sections 1802.B and 1802.C removed due to being redundant.

Section 1902.B-E recodified from former Section 1803.

### **Former 1803. Construction and Systems (II).**

Former Section 1803 removed due to being incorporated into proposed Section 1902.

### **1903. Submission of Plans and Specifications (II).**

Section 1903.A amended for clarity and to create consistency with other regulations.

Section 1903.B amended to create consistency with other regulations and for clarity.

#### **1904. Construction Inspections**

Section 1904 (formerly Section 1805) amended to create clarity and to require proper permitting.

### **FORMER SECTION 1900 – GENERAL CONSTRUCTION REQUIREMENTS**

Section 1900 removed to create consistency with other regulations.

#### **Former 1901. Fire Resistive Rating**

Section 1902 recodified to proposed Section 2000.C.

#### **Former 1902. Curtains and Draperies**

Section 1902 removed due to being unnecessary.

### **SECTION 2000 – FIRE PROTECTION AND EQUIPMENT AND SYSTEMS**

#### **2000. Fire Alarms (I).**

Section 2000 recodified from 2001 for organizational consistency within the regulation. Amended to create consistency with other regulations and current terminology.

Section 2000.C recodified from former Section 1901.

Section 2000.D added to create consistency with other regulations.

#### **SECTION 2100 – [RESERVED]**

Section 2100 added as a reserved section in order to create consistency with other regulations.

#### **SECTION 2200 – [RESERVED]**

Section 2200 added as a reserved section in order to create consistency with other regulations.

#### **SECTION 2300 – [RESERVED]**

Section 2300 added as a reserved section in order to create consistency with other regulations.

### **SECTION 2400 – ELECTRICAL (Former SECTION 2100 ELECTRICAL)**

#### **2401. Receptacles (II).**

Section 2401 added to create consistency with other regulations.

#### **2402 Ground Fault Protection (I).**

Section 2402 recodified from former Section 2211.

**2403. Exit Signs (I).**

Section 2403 added former Section 2212.

**2404. Emergency Electric Service (I).**

Section 2404 (former 2101) amended for clarity.

**2405. Emergency Generator Service.**

Section 2405 amended to reflect current terminology. Also amended to not require Opioid Treatment Programs to have generators per public comment.

**SECTION 2500 – [RESERVED]**

Section 2500 added as a reserved section in order to create consistency with other regulations.

**SECTION 2600 – PHYSICAL PLANT (Former SECTION 2200 PHYSICAL PLANT)**

Section 2600 amended to clarify which facilities and programs are required to fulfill each of the following regulations in this section per public comment.

**2601. Facility Accommodations and Floor Area (II).**

Section 2601 (formerly Section 2201) amended to reflect current terminology and to clarify which regulations are specific to Residential Facilities, rather than Opioid Treatment programs per public comment, and for general clarity.

**2602. Design (I).**

Section 2602 (formerly Section 2202) amended for clarity.

**2603. Furnishings and Equipment (I).**

Section 2603 (formerly Section 2203) amended for clarity.

**2604. Exits (I). (Formerly Number and Locations)**

Section 2604 (formerly Section 2204) amended for clarity.

Section 2604.EXCEPTION amended to be integrated with 2604.D.

**2605. Water Supply and Hygiene (II).**

Section 2605 (formerly Section 2205) amended for clarity.

**2606. Temperature Control (I).**

Section 2606 (formerly Section 2606) amended for clarity.

**2607. Cross-connections (I).**

Section 2607 added to create consistency with other regulations.

**2608. Wastewater Systems. (Formerly 2207. Design and Construction of Wastewater Systems (I).)**

Section 2608 (formerly Section 2207) amended for clarity.

**2609. Electric Wiring (I).**

Section 2609 (formerly Section 2208) amended for clarity.

**2610. Panelboards (II).**

Section 2610 (formerly Section 2209) amended for clarity.

**2611. Lighting.**

Section 2611 (formerly Section 2210) amended for clarity.

**Former Section 2211 Ground Fault Protection (I).**

Former Section 2211 recodified to 2402.

**Former Section 2212 Exit Signs (I).**

Former Section 2212 recodified to 2403.

**2612. Heating, Ventilation, and Air Conditioning (II).**

Section 2612 (formerly Section 2213) amended title to remove acronym. Also amended to reflect current terminology and to create consistency with other regulations.

**2613. Patient Rooms (II). (Formerly 2214 Client Rooms)**

Section 2613 (formerly Section 2214) amended to reflect current terminology and to create consistency with other regulations.

Section 2613.A amended for clarity.

Section 2613.EXCEPTION.1 removed due to being unnecessary.

Section 2613.EXCEPTION.2 removed due to being unnecessary.

**2614. Patient Room Floor Area.**

Section 2614 (formerly Section 2215) amended to reflect current terminology and clarity.

**2615. Bathrooms and Restrooms.**

Section 2615 (formerly Section 216) amended to reflect current terminology and to create consistency with other regulations. Exception determined to not be necessary to regulate.

**2616. Seclusion Room.**

Section 2616 (formerly Section 2217) amended to reflect current terminology.

**2617. Patient Care Unit and Station for Medical Withdrawal Management (II). (formerly 2218. Client Care Unit and Station (Applicable to medical detoxification facilities only).)**

Section 2617 (formerly Section 2218) amended to create consistency with other regulations and reflect current terminology.

Section 2617.D amended to change narcotics to “controlled substances” per public comment.

**2618. Doors (II). (formerly Section 2219)**

Section 2618.C removed to create consistency with other regulations.

Section 2618.EXCEPTION removed due to being unnecessary.

Section 2618.I removed due to create consistency with other regulations.

Section 2618.J removed due to being redundant.

**2619. Elevators (II).**

Section 2619 (formerly Section 2220) amended for clarity.

**Former 2221. Corridors**

Former Section 2221 removed to create consistency with other regulations.

**Former 2222. Ramps.**

Former Section 2222 removed to create consistency with other regulations.

**Former 2223. Landings.**

Former Section 2223 removed to create consistency with other regulations.

**Former 2224. Handrails/Guardrails.**

Former Section 2224 removed to create consistency with other regulations.

**2620. Screens (II).**

Section 2620 (formerly Section 2225) amended for clarity.

**Former 2226. Windows.**

Former Section 2226 deleted to create consistency with other regulations.

**2621. Janitor's Closet.**

Section 2621 (formerly Section 2227) amended to create consistency with other regulations, for clarity, and to reflect current terminology.

**2622. Storage Areas.**

Section 2622 (formerly Section 2228) amended to improve clarity.

**2623. Telephone Service.**

Section 2623 (formerly Section 2229) amended to create consistency with other regulations, for clarity, and reflect current terminology.

**2624. Location.**

Section 2624 (formerly Section 2230) amended for clarity, to reflect current terminology, and to create consistency with other regulations.

**2625. Outdoor Area.**

Section 2625 (formerly Section 2231) amended for clarity, to reflect current terminology, and to create consistency with other regulations.

**SECTION 2700 – SEVERABILITY (I) (Former SECTION 2300 SEVERABILITY)**

SECTION 2700 amended for clarity.

**SECTION 2800 – GENERAL (I) (Former SECTION 2400 GENERAL)**

SECTION 2800 amended for clarity.

**FORMER PART II OUTPATIENT FACILITIES**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

**FORMER SECTION 2500 PROGRAM DESCRIPTION**

FORMER SECTION 2500 removed as all content is being recodified to various locations within the regulation.

**FORMER PART III TREATMENT PROGRAM**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

**FORMER SECTION 2600 PROGRAM DESCRIPTION**

FORMER SECTION 2600 removed as all content is being recodified to various locations within the regulation.

Former 2601.B.1, B.11, B.16 removed due to being unnecessary.

Former 2602.B.3 removed due to being unnecessary.

Former 2606 removed due to being unnecessary.

#### **FORMER PART IV DETOXIFICATION FACILITIES**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

#### **FORMER SECTION 2700 PROGRAM DESCRIPTION**

Former Section 2700 removed as all content is being recodified to various locations within the regulation.

Former 2701.B.2-7 removed due to the recommendation of Bureau of Drug Control.

#### **FORMER PART V NARCOTIC TREATMENT PROGRAMS**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

#### **FORMER SECTION 2800 PROGRAM DESCRIPTION**

Former Section 2800 removed as all content is being recodified to various locations within the regulation.

Former 2801.A removed due to being unnecessary.

Former 2801.B.1 removed due to being unnecessary.

Former 2806 removed due to being unnecessary.

Former 2813 removed due to being redundant.

Former 2814 removed due to being redundant.

Former 2821 removed due to being unnecessary.

Former 2822 removed due to being unnecessary.

Former 2823 removed due to being unnecessary.

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

Interested persons may submit written comments on the proposed amendments to Health Regulation, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). Comments may also be submitted electronically on the Public Comments for Health Regulations page at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/PublicComments/>. To be considered, the



Department must receive the comment(s) by 5:00 p.m. on December 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 January 9 2019, 10:00 a.m. meeting. Interested persons may also make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statement 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, South Carolina 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: .

Copies of the proposed amendments for public comment as published in the *State Register* on November 22 2019, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Health Facilities Licensing Regulatory Update and scroll down to the proposed amendments of R.61-93. A copy can also be obtained by emailing [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov).

### **Preliminary Fiscal Impact Statement**

Implementation of these amendments will not require additional resources. There is no anticipated additional cost by the Department or state government due to any inherent requirements 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:** 61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence

**Purpose:** The Department proposes amending R.61-93 to update provisions in accordance with current practices and standards. The Department also proposes changing the name of the regulation and facility type to parallel the statutory term for this facility type. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

**Legal Authority:** 1976 Code Sections 44-7-260 et seq.

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

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

These proposed amendments are necessary to change the name of the regulation and the definition of the facility within the regulation to parallel the statutory term for this facility type, which is "Facility for

Chemically Dependent or Addicted Persons.” The facility type may also be referred to as “Substance Use Disorder Facilities” based on current terminology within the provider community, thereby reducing provider confusion. The proposed new amendments herein include the Bureau of Health Facilities Licensing’s effort to incorporate provisions relating to statutory mandates, update terminology used in the regulation to conform to the terminology widely used and understood within the provider community, incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. In addition, corrections have been made for organization, clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

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

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

#### **UNCERTAINTIES OF ESTIMATES:**

None.

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

The amendments to R.61-93 seek to support the Department’s goals relating to the protection of public health through the anticipated benefits of facilities adhering to the updated language and provisions highlighted above. There are no anticipated effects on the environment.

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

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

#### **Statement of Rationale:**

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

The Department proposes amending R.61-93 to update provisions in accordance with current practices and standards. Proposed amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Department also proposes changing the name of the regulation and facility type to parallel the statutory term for this facility type. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

#### **Text:**

~~Indicates Matter Stricken~~  
Indicates New Matter

61-93. Standards for Licensing Facilities ~~That Treat Individuals for Psychoactive Substance Abuse or Dependence~~ for Chemically Dependent or Addicted Persons.

Statutory Authority: (S.C. Code Sections 44-7-260 et seq.)

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# **PART I ALL FACILITIES**

## SECTION 100 – DEFINITIONS, REFERENCES, AND LICENSE/LICENSURE REQUIREMENTS.

### **101. Definitions.**

For the purpose of this regulation, the following definitions shall apply:

#### A. Abuse. Physical abuse or psychological abuse.

1. Physical Abuse. The act of intentionally inflicting or allowing infliction of physical injury on a Patient by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that of a therapeutic procedure prescribed by a licensed physician or other legally authorized healthcare professional. Physical abuse does not include altercations or acts of assault between Patients.

2. Psychological Abuse. The deliberate use of any oral, written, or gestured language or depiction that includes disparaging or derogatory terms to a Patient or within the Patient's hearing distance, regardless of the Patient's age, ability to comprehend, or disability, including threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

AB. Administering Medication. The direct application acts of preparing and giving of a single dose of a medication to the body of a ~~client~~ Patient by injection, ingestion, or any other means in accordance with the orders of a Physician or other Authorized Healthcare Provider.

BC. Administrator. The staff member designated by the ~~licensee~~ Licensee to have the authority and responsibility to manage the ~~facility~~ Facility and who is in charge of all functions and activities of the Facility.

CD. Adult. A person eighteen (18) years of age or older ~~or person under the age of 18 who has been emancipated in accordance with state law.~~

~~—D. Advanced Practice Registered Nurse. An individual who has Official Recognition as such by the SC Board of Nursing.~~

E. Aftercare/Continuing Care. Services provided to ~~clients~~Patients after discharge from a ~~facility~~Facility that facilitates the ~~client's~~Patient's integration or reintegration into society. Activities may include self-help groups, supportive work programs, and staff follow-up contacts and interventions.

F. Annual. ~~Once each 12-month period.~~A time period that requires an activity to be performed at least every twelve (12) months.

~~G. Architect. An individual currently registered as such by the SC State Board of Architectural Examiners.~~

~~HG. Assessment. A procedure for determining the nature and extent of the problems for which the individual is seeking treatment/services/care/education to include risk assessment, diagnosis, evaluating the physical, emotional, behavioral, social, vocational, recreational, mental, and, when appropriate, the nutritional and legal status/needs and needs of a client~~Patient or potential Patient to ascertain if the Facility can adequately address those problems, meet those needs, and to secure information for use in the development of the Individual Plan of Care. Clinical consideration of each client's needs, strengths, and weaknesses shall be included in the assessment to assist in a level of care placement.

~~IH. Authorized Healthcare Provider. An individual authorized by law and currently licensed in SC~~South Carolina as a Physician, advanced practice registered nurse, or physician assistant to provide specific treatments, care, or services to ~~clients~~Patients. ~~Examples of individuals who may be authorized by law to provide the aforementioned treatment/care/services may include, but are not limited to, advanced practice registered nurses, physician's assistants.~~

I. Blood Assay for *Mycobacterium tuberculosis* ("BAMT"). A general term to refer to in vitro diagnostic tests that assess for the presence of tuberculosis ("TB") infection with *Mycobacterium tuberculosis*. This term includes, but is not limited to, IFN- $\gamma$  release assays ("IGRA").

J. Chemical Dependency. A disorder manifested by repeated use of alcohol or another substance to an extent that it interferes with a person's health, social, or economic functioning; some degree of habituation and dependence may be implied. May also be referred to as Substance Use Disorder.

~~J. Client. A person who receives treatment, services, or care from a psychoactive substance abuse or dependence facility. This term is synonymous with the term "patient."~~

~~K. Client Room. An area enclosed by ceiling high walls that can house one or more clients of the facility.~~

~~LK. Clinical Services Supervisor. The designated individual with responsibility for clinical supervision of treatment Staff and interpretation of program policy and standards.~~

~~ML. Consultation. A visit to meeting with a licensed facility~~Facility by and individuals authorized by the Department to provide information to Facilities in order to enable Facilities to better comply with the regulations.

M. Contact Investigation. Procedures that occur when a case of infectious Tuberculosis is identified, including finding persons (contacts) exposed to the case, testing and evaluation of contacts to identify Latent Tuberculosis Infection or Tuberculosis disease, and treatment of these persons, as indicated.

N. Controlled Substance. A medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act or the South Carolina Controlled Substances Act.

NO. Counselor. An appropriately licensed/certified individual who applies a specific body of knowledge and skills within a particular ethical context in order to facilitate behavior change or to facilitate greater comfort with an existing behavioral pattern. These services may be provided in individual, group and/or family modalities, and provided in a variety of settings (See Section 504) licensed by the South Carolina Department of Labor, Licensing and Regulation or certified as such by South Carolina Association of Alcoholism and Drug Abuse Counselors.

O. DSS. The SC Department of Social Services

P. Department. The SC South Carolina Department of Health and Environmental Control.

Q. Delivery of Medications. The actual, constructive, or attempted transfer of a medication or device from one person to another. In instances where the facility is storing medication, the act of presenting/making available the container of this medication to a client who has been authorized by physician or authorized healthcare provider orders to self-administer that medication.

R. Detoxification. A process of withdrawing a client from a specific psychoactive substance in a safe and effective manner.

S. Detoxification Facility. A 24 hour freestanding facility providing detoxification services of which there are two types:

—— 1. Medical. A short-term Residential facility, separated from an inpatient treatment facility, providing for medically supervised withdrawal from psychoactive substance-induced intoxication, with the capacity to provide screening for medical complications of alcoholism and/or drug abuse, a structured program of counseling, if appropriate, and referral for further rehabilitation.

—— 2. Social. A service providing supervised withdrawal from alcohol or other drugs in which neither the client's level of intoxication nor physical condition is severe enough to warrant direct medical supervision or the use of medications to assist in withdrawal, but which maintains medical backup and provides a structured program of counseling, if appropriate, educational services, and referral for further rehabilitation. A social detoxification facility provides 24-hour-a-day observation of the client until discharge.

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

UR. Direct Care Staff/Volunteers. Those individuals who provide care/treatment and services to the client/Patient.

VS. Discharge. The point at which the client's active involvement with treatment, care, and services in a facility/Facility is/are terminated and the facility/Facility no longer maintains active responsibility for the care of the client/Patient, except for Continuing Care monitoring.

W. Dispensing Medication. The transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person permitted by law, to the ultimate consumer or his/her agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by a client.

T. Elopement. An instance when a Patient who is physically, mentally, or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves the Facility unsupervised or unnoticed.

~~X. Existing Facility. A facility which was in operation and/or one which began the construction or renovation of a building, for the purpose of operating the facility, prior to the promulgation of this regulation. The licensing standards governing new facilities apply if and when an existing facility is not continuously operated and licensed under this regulation.~~

U. Exploitation. (1) Causing or requiring a Patient to engage in an activity or labor that is improper, unlawful, or against the reasonable and rational wishes of a Patient. Exploitation does not include requiring a Patient to participate in an activity or labor that is a part of a written individual plan of care or prescribed or authorized by the Patient's attending physician; (2) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a Patient by an individual for the profit or advantage of that individual or another individual; or (3) causing a Patient to purchase goods or services for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the Patient through cunning arts or devices that delude the Patient and cause him or her to lose money or other property.

~~YV. Facility for Chemically Dependent or Addicted Persons (Facility or Substance Use Disorder Facility). An entity licensed by the Department that provides care/treatment/services for psychoactive substance abuse or dependence to two or more persons (not related to the licensee) and their families based on an individual treatment plan including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services in any of the following modalities:~~

~~— 1. Outpatient;~~

~~— 2. Residential treatment program;~~

~~— 3. Medical detoxification;~~

~~— 4. Social detoxification;~~

~~— 5. Narcotic treatment program.~~ A facilityFacility organized to provide Outpatient or Residential Services to Chemically Dependent or Addicted Persons and their families based on an Individual Plan of Care including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.

ZW. Follow-up. Intermittent contact with a ~~client~~Patient following discharge from the program, for assessment of ~~client~~Patient status and needs.

~~AA~~X. Health Assessment. An evaluation of the health status of a staff member/volunteer by a Physician, other Authorized Healthcare Provider, or a registered nurse. A registered nurse may complete the Health Assessment pursuant to standing orders approved by a Physician as evidenced by the Physician's signature. The standing orders shall be reviewed annually by the Physician, with a copy of the review maintained at the facilityFacility.

Y. Individual Plan of Care. A written action plan based on assessment data that identifies the Patient's diagnosis and/or needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions.

~~BB. Initial License. A license granted to a new facility.~~

~~CCZ. In-process Counselor. A counselor who has been accepted by the SCAADAC~~South Carolina Association of Alcoholism and Drug Abuse Counselors as enrolled for certification.

~~DDAA. Inspection. A visit by authorized individuals to a facility or to a proposed facility~~the Department for the purpose of determining compliance with this regulation.

~~EEBB. Intake. The administrative and assessment process for admission to a program.~~

~~FF. Individualized Treatment Plan (ITP). A written action plan based on assessment data that identifies the client's needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions.~~

CC. Interdisciplinary Team. A group designated by the Facility to provide or supervise care, treatment, and services. The group normally includes but is not limited to the following persons: Counselors, social workers, Physicians and other Authorized Healthcare Providers, pharmacists, peer support specialists, etc.

~~GGDD. Investigation. A visit by authorized individuals~~Department representatives to a licensed or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to ~~this regulation~~ statutory and regulatory compliance.

EE. Legend Medications.

1. A Controlled Substance, when under federal law, is required, prior to being dispensed or delivered to be labeled with any of the following statements:

a. "Caution: Federal law prohibits dispensing without prescription."

b. "Rx only"; or

2. A Controlled Substance which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

3. Any Controlled Substance considered to be a public health threat, after notice and public hearing as designated by the South Carolina Board of Pharmacy; or

4. Any prescribed compounded prescription Controlled Substance within the meaning of the South Carolina Pharmacy Practice Act.

~~HH. Levo-alpha acetylmethadol (LAAM). A multi-day synthetic narcotic medication.~~

~~FFF. License. The authorization to operate a facility~~Substance Use Disorder Facility as defined in this regulation and as evidenced by a certificate issued by the Department to a ~~facility~~Facility.

~~HGG. Licensed Nurse. A person to whom the SC~~ South Carolina Board of Nursing has issued a license as a registered nurse or licensed practical nurse-, ~~or an individual licensed as a registered nurse or licensed practical nurse who resides in another state that has been granted multi-state licensing privileges by the South Carolina Board of Nursing and may practice nursing in any facility~~ Facility or activity licensed by the Department subject to the provisions and conditions as indicated in the Nurse Licensure Compact Act.

~~KKHH. Licensee. The individual, corporation, organization, or public entity who has received a license to provide psychoactive substance abuse or dependence treatment services and with whom rests the ultimate responsibility for compliance with this regulation licensed pursuant to this regulation to provide dependency and Substance Use Disorder treatment services.~~

II. Medical Withdrawal Management Program. A program in a Residential Facility providing for medically-supervised Withdrawal Management, with the capacity to provide screening for medical complications of Substance Use Disorder, a structured program of counseling, if appropriate, and referral for further rehabilitation.

JJ. Medication. A substance that has therapeutic effects, including, but not limited to, Legend, Non-Legend, over-the counter, and nonprescription Medications, herbal products, vitamins, and nutritional supplements.

KK. Medication Unit. A Satellite location established as part of, but geographically separate, from a licensed Opioid Treatment Program to only administer Medications and conduct substance use screening.

LL. Methadone. A synthetic opioid Medication usually administered on a daily basis.

MM. Minor. Any person whose age does not meet the criteria indicated in Section 101.C.

~~NN. Mothers with Children Facilities. A Residential treatment program facility for mothers undergoing psycho substance abuse/dependence treatment where circumstances prohibit the child(ren) being housed/cared for in locations other than with the mother, and the child is under the mother's direct care or in a licensed child care facility approved by DSS. The terms "child" or "children" are considered synonymous with "infant," "baby," "adolescent," or "offspring."~~

~~—OO. Narcotic Treatment Program (NTP). An outpatient psychoactive substance abuse/dependence program using methadone or other narcotic treatment medication such as LAAM, and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group. The NTP is designed to prevent the onset of abstinence symptoms for at least 24 hours; reduce or eliminate drug craving; and block the effects of other opiates without producing euphoria or other undesirable effects.~~

~~——1. Clinic. A single location at which NTP medication and rehabilitative services to clients are provided.~~

~~——2. Detoxification. A medically supervised, gradual reduction or tapering of dose over time to achieve the elimination of tolerance and physical dependence to NTP medications, and not detoxification from other substances which shall be accomplished pursuant to R.61-4.~~

~~——3. Maintenance. A treatment procedure using NTP medication or any of its derivatives administered over a period of time to relieve withdrawal symptoms, reduce craving and permit normal functioning.~~

~~——4. Maintenance Continuing Care. A planned course of treatment for NTP maintenance clients directed toward reduction in dosage, achievement of abstinence and, with the aid of supportive counseling, the forging of a drug-free lifestyle.~~

NN. Neglect. The failure or omission of a direct care staff member to provide the care, goods, or services necessary to maintain the health or safety of a Patient including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Failure to provide adequate supervision resulting in harm to

Patients, including altercations or acts of assault between Patients, may constitute neglect. Neglect may be repeated conduct or a single incident that has produced or could result in physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect.

~~— PP. New Facility. All buildings or portions of buildings, new and existing building(s), that are:~~

~~—— 1. Being licensed for the first time;~~

~~—— 2. Providing a different modality/service when the licensee has changed the type of license;~~

~~—— 3. Being licensed after the previous licensee's license has been revoked, suspended, or after the previous licensee has voluntarily surrendered his/her license.~~

OO. Non-Legend Medications. A substance which may be sold without a prescription and which is labeled for use by the consumer in accordance with state and federal law.

PP. Opioid Treatment Program. A program within an Outpatient Facility providing services using Methadone or other opioid treatment Medication, and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic Controlled Substance of that group.

~~QQ. Outpatient Facility. A facilityFacility providing specialized nonresidential services, which may include prevention services, for individuals dependent upon or abusing psychoactive substance(s) and for their familiesOutpatient Services. (NTP is a separate type of facility)~~

~~RR. Outpatient Services. Services to individuals dependent upon or abusing psychoactive substance(s) and their families based on an individualized treatment plan (ITP) in a nonresidential setting including assessment, diagnosis, and treatment that may encompass individual, family, and group counseling, vocational and educational counseling, and referral services. Non-Residential services for persons with Substance Use Disorder and/or their families.~~

SS. Patient. Any individual who receives Outpatient or Residential Services from a licensed Facility.

~~— SS. Peak Hours. Those hours in a 24 hour facility from the time when clients awake until going to bed, or other justifiable and reasonable time period determined by the facility, and in consideration of clients' presence in the facility, and acuity of their needs.~~

~~— TT. Pharmacist. An individual currently licensed as such by the SC Board of Pharmacy.~~

~~UUTT. Physical Examination. In facilities other than NTP (See Section 3208), an~~ An examination of a clientPatient by a Physician or other Authorized Healthcare Provider which addresses those issues identified in Section 1100 of this regulation.

~~— VV. Physician. An individual currently licensed to practice medicine by the SC Board of Medical Examiners.~~

~~— WW. Physician's Assistant. An individual currently licensed as such by the SC Board of Medical Examiners.~~



~~XXUU.~~ Primary Counselor. An individual who is assigned by a ~~facility~~Facility to develop, implement, and periodically review the ~~client's ITP~~Patient's Individual Plan of Care and to monitor a ~~client's~~Patient's progress in treatment.

~~YY. Psychoactive Substance Abuse or Dependence. A chronic disorder manifested by repeated use of alcohol or other drugs to an extent that interferes with a person's health, social, or economic functioning; some degree of habituation, dependence or addiction may be implied. Persons who are dependent or abusing psychoactive substance(s) are those whose compulsive use of alcohol or other drugs is such that they have lost the power of self-control with respect to the use of the chemical.~~

~~ZZ. Psychoactive Substance Abuse or Dependence Treatment Facility. A facility that provides specialized structured psychoactive substance abuse/dependence care/treatment for two or more persons unrelated to the licensee, including outpatient, NTP, Residential treatment, or detoxification.~~

~~AAAVV.~~ Quality Improvement Program. The process used by a ~~facility~~Facility to examine its methods and practices of providing care services, identify the ways to improve its performance, and take actions that result in ~~higher~~improved quality of care for the ~~facility's~~Facility's ~~clients~~Patients.

~~BBB. Ramp. An inclined accessible route that facilitates entrance to or egress from or within a facility.~~

~~CCC. Related/Relative. A spouse, son, daughter, sister, brother, parent, aunt, uncle, grandchild, niece, nephew, grandparent, great grandparent, grandchild, or great grandchild. (This is also referred to as within the 3rd degree of consanguinity).~~

~~DDDDWW.~~ Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a ~~36-month~~twenty-four (24) month period. ~~The time period determinant of repeat violation status is also applicable in instances when there are ownership changes.~~

~~XX. Residential Facility. A twenty-four (24) hour Facility offering Residential Treatment Program, Medical Withdrawal Management, and Social Withdrawal Management services in a Residential setting including services for parents with children.~~

~~EEEEYY.~~ Residential Treatment Program Facility. A ~~24-hour facility service~~program in a Residential Facility ~~offering an organized service which~~that is designed to improve the ~~client's~~Patient's ability to structure and organize the tasks of daily living and foster recovery through planned clinical activities, counseling, and clinical monitoring in order to promote successful involvement or re-involvement in regular, productive daily activity, and, as indicated, successful reintegration into family living.

~~FFFZZ.~~ Revocation of License. An action by the Department to cancel or annul a ~~facility~~Facility License by recalling, withdrawing, or rescinding its authority to operate.

~~GGGAAA .~~ Satellite Facility. An approved ~~outpatient facility~~Outpatient Facility at a location other than the main ~~outpatient facility~~Outpatient Facility that is owned or operated by the same licensee. ~~Satellite locations are authorized only in the same county as the main facility or in contiguous counties to the county in which the main facility is located.~~

~~BBB. Self-Administration. A procedure by which any Medication is taken orally, injected, inserted, or topically or otherwise administered by a Patient to himself or herself without prompting. The procedure is performed without assistance and includes removing an individual dose from a previously dispensed and labeled container (including a unit dose container), verifying it with the directions on the label, taking it orally, injecting, inserting, or applying topically or otherwise administering the Medication.~~

CCC. Social Withdrawal Management Program. A program in a Residential Facility providing supervised Withdrawal Management in which neither the Patient's level of intoxication nor physical condition is severe enough to warrant direct medical supervision or the use of Medications to assist in withdrawal, but which maintains medical backup and provides a structured program of counseling (if appropriate), educational services, and referral for further rehabilitation.

~~HHH~~DDD. Staff. Those individuals who are employees (full and part-time) of the ~~facility~~Facility, to include those individuals contracted to provide ~~treatment/care/services~~care and services for the ~~client~~Patients.

EEE. Substance Use Disorder. A recurrent use of alcohol or other substance causing clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.

~~HHFF~~F. ~~Suspend~~Suspension of License. An action by the Department requiring a ~~facility~~Facility to cease operations for a period of time or to require a ~~facility~~Facility to cease admitting ~~clients~~Patients, until such time as the Department rescinds that restriction.

~~JJJ. Treatment. The process of providing for the physical, emotional, psychological, and social needs of clients which may include diagnostic evaluation, counseling, medical, psychiatric, psychological, nutritional, recreational, educational, or social service care, which may be extended to clients to influence the behavior of such individuals toward identified goals and objectives.~~

GGG. Tuberculosis Risk Assessment. An initial and ongoing evaluation of the risk for transmission of Mycobacterium Tuberculosis in a particular healthcare setting. To perform a risk assessment, the following factors shall be considered: the community rate of Tuberculosis, number of Tuberculosis Patients encountered in the setting, and the speed with which Patients with Tuberculosis disease are suspected, isolated, and evaluated. The Tuberculosis Risk Assessment determines the types of administrative and environmental controls and respiratory protection needed for a setting.

~~KKK. Twenty Four Hour Facility. A facility which offers overnight accommodations to clients as well as psychoactive substance abuse or dependence treatment and other care/services appropriate to their condition.~~

~~LLL~~HHH. Volunteer. An individual who performs tasks that are associated with the operation of the ~~facility~~Facility without pay and at the direction of the ~~administrator~~Administrator or his or her designee.

III. Withdrawal Management. A process of withdrawing a Patient from a specific psychoactive substance in a safe and effective manner.

## **102. References.**

—A. The following Departmental publications are referenced in these regulations:

- 1. R.61-4, SC Controlled Substances Regulation;
- 2. R.61-20, Communicable Diseases;
- 3. R.61-25, Retail Food Establishments;

- 4. R.61-51, Public Swimming Pools;
- 5. R.61-58, State Primary Drinking Water Regulations;
- 6. R.61-67, Standards for Wastewater Facility Construction;
- 7. R.61-105, SC Infectious Waste Management Regulations;
- 8. SC Guidelines for Prevention and Control of Antibiotic Resistant Organisms.
- B. The following non-Departmental publications are referenced within this regulation:
- 1. Underwriters Laboratories Fire Resistance Directory;
- 2. Underwriters Laboratories Building Materials List;
- 3. Occupational Safety and Health Act of 1970 (OSHA);
- 4. Food and Nutrition Board of the National Research Council, National Academy of Sciences;
- 5. National Sanitation Federation;
- 6. Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Healthcare Facilities.

### **1032. License Requirements.**

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, ~~or represent, advertise, or market~~ itself as a ~~facility~~ Facility in ~~SC~~ South Carolina without first obtaining a License from the Department. No Facility shall admit Patients prior to the effective date of the License. When it has been determined by the Department that ~~care/treatment services for psychoactive substance abuse or dependence to two or more individuals unrelated to the owner is for Substance Use Disorder are~~ being provided at a location, and the owner has not been issued a License from the Department ~~to provide such care/treatment~~, the owner shall cease and desist operation immediately and ensure the safety, health, and well-being of the ~~occupants within the scope of the law~~ Patients. Admission of clients ~~prior to the effective date of licensure is a violation of Section 44-7-260(A)(1) of the SC Code of Laws, 1976, as amended.~~ Current and/or previous violations of the ~~SC~~ South Carolina Code ~~and/or~~ Department regulations may jeopardize the issuance of a License for the ~~facility~~ Facility or the licensing of any other, ~~facility~~ Facility or addition to an existing ~~facility~~ Facility that is owned/operated by the licensee. The ~~facility~~ Facility shall provide only the treatment, services, and care it is licensed to provide pursuant to the definition in Section 101.V. of this regulation. (I)

B. Compliance. An initial License shall not be issued to a proposed ~~facility~~ Facility ~~that has been not previously and continuously licensed under Department regulations~~ until the licensee Licensee has demonstrated to the Department that the proposed ~~facility~~ Facility is in substantial compliance with the licensing ~~regulations~~ standards. In the event a current licensee Licensee of a currently licensed who already has a facility Facility or activity makes application for another ~~facility~~ Facility, the currently licensed ~~facility~~ Facility /activity shall ~~demonstrate~~ be in substantial compliance with the applicable standards prior to the Department issuing a License to the proposed ~~facility~~ Facility or amended License to the existing Facility. A paper or electronic copy of ~~this regulation~~ the licensing standards shall be maintained at the

~~facility~~ Facility and accessible to all Staff members and Volunteers. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations.

C. ~~Licensed Capacity~~ Services. No ~~facility~~ Facility ~~that has been authorized to shall~~ provide ~~certain treatment/care/services shall provide other~~ services outside the limits of the type ~~facility~~ Facility identified on the face of the License and/or which ~~it~~ the Facility has been authorized to provide. (I)

D. Satellite Facilities.

1. Outpatient Satellite locations, other than Medication Units, are authorized only in the same county as the main Facility or in contiguous counties to the county in which the main Facility is located.

2. Medication Units. A Licensed Outpatient Facility providing an Opioid Treatment Program may establish a Medication Unit. A Medication Unit shall only administer Medications and conduct substance use screening. Other required services shall be provided at the licensed Facility's primary location. The Medication Unit shall meet the regulatory requirements for Medication administration, staffing, substance use screening, and construction.

a. Medication Units shall be opened no closer than forty-five (45) miles and no further than ninety (90) miles from the primary Opioid Treatment Program.

b. The Facility shall obtain a registration from the Department's Bureau of Drug Control and a Controlled Substances registration from the federal Drug Enforcement Administration for each Medication Unit.

c. The Facility shall not establish, operate, or maintain a Medication Unit without submitting an application to and receiving approval from the Department. The Facility's application for the Medication Unit shall include documentation from the Department evidencing that the applicant received either a Certificate of Need or a determination by the Department that Certificate of Need review is not required.

~~DE.~~ Licensed Bed Capacity. No ~~24-hour facility~~ Residential Facility that has been authorized to provide a set number of licensed beds, as identified on the face of the License, shall exceed the licensed bed capacity. No ~~facility~~ Facility shall establish new ~~treatment/care/~~ or services or occupy additional beds or renovated space without first obtaining authorization from the Department. ~~(F)~~ Licensed beds shall not be utilized by any individuals other than Facility Patients. (I)

~~EF.~~ Persons Received in Excess of Licensed Bed Capacity. No ~~24-hour facility~~ Residential Facility shall receive for ~~treatment/~~ care/ or services persons in excess of the licensed bed capacity, except in cases of justified emergencies (See Section 1400). (I)

**EXCEPTION:** Licensed Capacity Exception. In the event that the facility temporarily provides shelter for evacuees who have been displaced due to a disaster, then for the duration of that emergency, provided the health, safety, and well-being of all clients are not compromised, it is permissible to temporarily exceed the licensed capacity for the facility in order to accommodate these individuals (See Section 607).

~~FG.~~ Living Quarters for Staff in ~~24-hour~~ Residential Facilities. In addition to ~~clients~~ Patients, only Staff members, Volunteers, or owners of the ~~facility~~ Facility and members of ~~their~~ the owner's immediate families/family may reside in ~~facilities~~ Facilities licensed under this regulation. ~~Client~~ Patient rooms shall not be utilized by ~~staff/family/volunteers~~ any individuals other than Facility Patients, nor shall bedrooms of ~~Staff members/volunteers~~ or family members of the owner or the Licensee ~~bedrooms~~ be utilized by ~~clients~~ Patients. However, children may occupy client rooms that have been licensed by the Department in

~~programs specifically licensed to provide care/treatment for mothers who are chemically dependent. (H)~~  
Staff members or family members of the owner or Licensee, or Volunteers shall not use Patient living rooms, recreational areas, or dining rooms unless they are on duty.

GH. Issuance and Terms of License.

1. ~~A~~The license License is issued by the Department ~~and~~ shall be posted by the Licensee in a conspicuous place in a public area within the ~~facility~~ Facility.

2. The issuance of a License does not guarantee adequacy of individual care, ~~treatment services,~~ personal safety, fire safety, or the well-being of any ~~client~~ Patient or occupant of a ~~facility~~ Facility.

3. A License is not assignable nor transferable and is subject to revocation at any time by the Department for the ~~licensee's~~ Licensee's failure to comply with the laws and regulations of this ~~State~~ state.

4. A License shall be effective for a specified ~~facility~~ Facility, at a specific location~~(s)~~, for a specified period following the date of issue as determined by the Department. A License shall remain in effect until the ~~facility is otherwise notified by the Department~~ Department notifies the Licensee of a change in the status.

5. ~~Except for outpatient satellite facilities, facilities~~ Facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, ~~e.g., interstate highways,~~ shall not be considered as dividing otherwise adjoining or contiguous property. For Facilities owned by the same entity, separate Licenses are not required for separate buildings on the same or adjoining grounds where a single type of service is provided.

~~6. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a single level or type of care is provided.~~

~~7. Multiple types of facilities~~ Facilities providing Outpatient and Residential Services on the same premises shall be licensed separately even though owned by the same entity.

HI. Facility Name. No proposed ~~facility~~ Facility shall be named nor ~~may~~ shall any existing ~~facility~~ Facility have its name changed to the same or similar name as any other ~~facility~~ Facility licensed in ~~SC~~ South Carolina. The Department shall determine if names are similar. If ~~it~~ the Facility is part of a "chain operation" it shall then have the geographic area in which it is located as part of its name. ~~The Department shall determine if names are similar.~~

IJ. Application. Applicants for a ~~license~~ License shall submit to the Department a completed application on a form prescribed, prepared, and furnished by the Department prior to initial licensing ~~and periodically thereafter at intervals determined by the Department.~~ Applicants for a ~~license~~ License shall file an application with the Department; that includes both an oath assuring ~~that~~ the contents of the application are accurate ~~and~~ and true and in compliance with this regulation.

~~J. Fees. Fees shall be made payable by check or money order to the Department.~~

~~1. The initial and annual license fee shall be \$75.00 for outpatient facilities and NTP's. The licensing fee for outpatient facility satellite locations shall be \$50.00 initial and annual per satellite facility.~~

~~2. For all other facilities licensed under this regulation, the annual license fee shall be \$10.00 per bed, with a minimum of \$75.00.~~

~~— 3. Fees for additional beds shall be prorated based upon the remaining months of the licensure year.~~

~~— 4. All fees remaining unpaid 30 days after billing shall be issued a late notice with no penalty due; however, it shall contain advisement of penalty for non payment after 60 days. Fees remaining unpaid after 60 days shall be assessed a 10% penalty. Fees remaining unpaid at the end of 90 days shall be assessed a 25% penalty in addition to the 60 day penalty.~~

~~— 5. If a license renewal is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure year, or \$75.00, whichever is greater.~~

~~— 6. Continual failure to submit completed and accurate renewal applications and/or fees by the time periods specified by the Department may result in an enforcement action.~~

~~— 7. The Department may charge a fee for plan reviews, construction inspections and licensing inspections.~~

K. Required Documentation. The application for initial licensure shall include:

1. Completed application;

2. Proof of ownership of real property on which the Facility is located or a rental or lease agreement allowing the Licensee to occupy the real property on which the Facility is located;

3. Verification of emergency evacuation plan (see Section 1401); and

4. Verification of Administrator's qualifications.

L. Licensing Fees. Each applicant shall pay a License fee prior to the issuance of a License.

1. The initial and annual License fee shall be seventy-five dollars (\$75.00) for Outpatient Facilities. The initial and annual License fee for Outpatient Facility satellite locations shall be fifty dollars (\$50.00) per Satellite Facility.

2. For Residential Facilities, the annual License fee shall be ten dollars (\$10.00) per bed or seventy-five dollars (\$75.00), whichever is greater.

M. Licensing Late Fees. Failure to submit a renewal application and fee to the Department by the License expiration date shall result in a late fee of seventy-five dollars (\$75.00) or twenty-five percent (25%) of the licensing fee amount, whichever is greater, in addition to the licensing fee. Failure to submit the licensing fee and licensing late fee to the Department within thirty (30) days of the licensure expiration date shall render the Facility unlicensed. (II)

~~N.~~ License Renewal. For a ~~license~~ License to be renewed, applicants shall file an application with the Department, pay a ~~license~~ License fee, and shall not be under consideration for, or undergoing, enforcement actions by the Department. ~~If the license renewal is delayed due to enforcement actions, the renewal license will be issued only when the matter has been resolved satisfactorily by the Department, or when the adjudicatory process is completed, whichever is applicable.~~ Annual licensing fees shall also include any outstanding Inspection fees. All fees are non-refundable, shall be made payable by check or credit card to the Department or online, and shall be submitted with the application.

~~L.O. Change of License-Amended License.~~ No facility shall establish new care or services or occupy additional beds or renovated space without first obtaining authorization from the Department. A Facility shall request issuance of an amended License by application to the Department prior to any of the following circumstances:

~~1. A facility shall request issuance of an amended license by application to the Department prior to any of the following circumstances:~~

~~—a1. Change of ownership licensed bed capacity;~~

~~—b2. Change in authorized capacity of Facility location from one geographic site to another;~~

~~—e3. Reallocation of types of beds as shown on the license (if applicable). Changes in Facility name or address (as notified by the post office); or~~

~~—d4. Change of facility location from one geographic site to another in Facility service type.~~

~~2. Changes in a facility name or address initiated by the post office (no location change) may be accomplished by application or letter from the licensee.~~

~~M. Licensing is not required for any facility operated by the federal government.~~

~~N. Exceptions to the Standards of this Regulation. The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well being of the clients will not be compromised and provided the standard is not specifically required by state or federal law.~~

P. Change of Licensee. A Facility shall request issuance of a new License by application to the Department prior to any of the following circumstances:

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

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

Q. Variance. A variance is an alternative method that ensures the equivalent level of compliance with the standards in this regulation. The Facility may request a variance to this regulation in a format as determined by the Department. Variances shall be considered on a case by case basis by the Department. The Department may revoke issued variances as determined to be appropriate by the Department.

## **SECTION 200**

### **ENFORCING REGULATIONS.**

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

##### **201. General.**

The Department shall utilize ~~inspections~~ Inspections, ~~investigations~~ Investigations, ~~consultations~~ Consultations, and other pertinent documentation regarding a proposed or licensed ~~facility~~ Facility in order to enforce this regulation.

## 202. Inspections and Investigations.

A. Inspections ~~by the Department~~ shall be conducted prior to initial licensing of a ~~facility~~ Facility and subsequent ~~inspections~~ Inspections conducted as deemed appropriate by the Department.

B. All ~~facilities~~ Facilities are subject to ~~inspection/investigation~~ Inspection and/or Investigation at any time without prior notice by individuals authorized by the ~~Department~~ South Carolina Code of Laws. When ~~staff~~ Staff members and/or clients ~~Patients~~ are absent, the ~~facility~~ Facility shall ~~provide post~~ provide post information at the entrance of the Facility to those seeking legitimate access to the ~~facility~~ Facility, including visitors ~~as to the expected return of staff/clients~~. The posted information shall include contact information and the expected time of return of the Staff members and Patients. The contact information shall include the name of a designated contact and his or her telephone number. The telephone number for the designated contact shall not be the Facility's telephone number. (I)

C. Individuals authorized by the ~~Department~~ South Carolina law shall be allowed to enter the Facility for the purpose of Inspection and/or Investigation and granted access to all properties and areas, objects, and requested records, and documentation at the time of the Inspection or Investigation. The Department shall have the authority to require the facility Facility to make photocopies of those documents required in the course of ~~inspections~~ Inspections or ~~investigations~~ Investigations. Photocopies shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. The physical area of Department Inspections and Investigations shall be determined by the Department based on the potential impact or effect upon patients. (H)(I)

D. When there is noncompliance with the licensing standards of this regulation, the ~~facility~~ Facility shall submit an acceptable ~~written~~ plan of correction ~~to in a format determined by the Department, that~~ The plan of correction shall be signed by the administrator Administrator and returned by the date specified on the report of ~~inspection/investigation~~ Inspection and/or Investigation. The ~~written~~ plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

E. ~~Reports of inspections conducted by the Department, including the facility response, shall be made available upon request with the redaction of the names of those individuals in the report as provided by Section 44-7-315 of the SC Code of Laws, 1976, as amended. In accordance with South Carolina Code Section 44-7-270, the Department may charge a fee for Inspections.~~

1. Residential Facilities. The fee for initial, relocation, and routine Inspections shall be three hundred fifty dollars (\$350.00), plus twenty-five dollars (\$25.00) per licensed bed. The Inspection fee for a bed increase and/or service modification is two hundred dollars (\$200.00), plus twenty-five dollars (\$25.00) per licensed bed. The fee for all follow-up Inspections shall be two hundred dollars (\$200.00), plus twenty-five dollars (\$25.00) per licensed bed.

2. Outpatient Facilities. The fee for initial, relocation, and routine Inspections shall be four hundred fifty dollars (\$450.00). The Inspection fee for service modification, including the establishment of a Satellite Facility, and follow-up Inspections is two hundred fifty dollars (\$250.00).



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

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

### **203. Consultations.**

—Consultations shall be provided by the Department as requested by the ~~facility~~ Facility or as deemed appropriate by the Department.

## **SECTION 300**

### **ENFORCEMENT ACTIONS.**

## **SECTION 300 – ENFORCEMENT ACTIONS**

### **301. General.**

When the Department determines that a ~~facility~~ Facility is in violation of any statutory provision or regulation relating to the operation or maintenance of such ~~facility~~ Facility, the Department, upon proper notice to the Licensee, may ~~initiate an enforcement action, i.e., deny, suspend, or revoke a license~~ Licenses, or ~~impose~~ assess a monetary penalty, or both.

### **302. Violation Classifications.**

A. Violations of standards in this regulation are classified as follows:

A 1. Class I violations are those that ~~the Department determines to~~ present an imminent danger to the health, safety, or well-being of the persons in the ~~facility~~ Facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a ~~facility~~ Facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

~~B~~ 2. Class II violations are those, other than Class I violations, that ~~the Department determines to~~ have a negative impact on the health, safety, or well-being of persons in the ~~facility~~ Facility. The citation of a

Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

~~€~~ 3. Class III violations are those that are not classified as Class I or II in ~~these~~ this regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

~~DB.~~ The notations, “(I)” or “(II),” placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Failure to meet standards not so annotated are considered Class III violations.

~~EC.~~ In arriving at a decision to take determining an enforcement actions action, the Department ~~will~~ shall consider the following factors: ~~specific conditions and their impact or potential impact on health, safety or well-being; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee’s character such as illegal/illicit activities; overall conditions; history of compliance; and any other pertinent conditions that may be applicable to current statutes and regulations.~~

1. Specific conditions and their impact or potential impact on health, safety, or well-being of the Patients including, but not limited to:

a. Deficiencies in Medication management; critical waste water problems; housekeeping, or fire and life safety-related problems that pose a health threat to the Patients;

b. Power, water, gas, or other utility and/or service outages;

c. Patients exposed to air temperature extremes that jeopardize their health;

d. Unsafe condition of the building or structure;

e. Indictment of an Administrator for malfeasance or a felony, which by its nature indicates a threat to the Patients;

f. Direct evidence of Abuse, Neglect, or Exploitation;

g. Lack of food or evidence that the Patients are not being fed properly;

h. No Staff available at the Facility with Patients present;

i. Unsafe procedures and/or treatment being practiced by Staff; (I)

2. Repeated failure of the Licensee or Facility to pay assessed charges for utilities and/or services resulting in repeated or ongoing threats to terminate the contracted utilities and/or services; (II)

3. Efforts by the Facility to correct cited violations;

4. Overall conditions of the Facility;

5. History of compliance; and

6. Any other pertinent conditions that may be applicable to current statutes and regulations.

~~FD. When a decision is made to impose~~imposing monetary penalties, ~~the following schedule will be used as a guide to determine the dollar amount~~ the Department may invoke South Carolina Code Section 44-7-320(C) to determine the dollar amount or may utilize the following schedule:

**Frequency of violation  
of standard within a  
36-month period:**

<b>MONETARY PENALTY RANGES</b>			
<b>FREQUENCY</b>	<b>CLASS I</b>	<b>CLASS II</b>	<b>CLASS III</b>
1st	\$ 500-1,500	\$ 300-800	\$100-300
2nd	1,000-3,000	500-1,500	300-800
3rd	2,000-5,000	1,000-3,000	500-1,500
4th	5,000	2,000-5,000	1,000-3,000
5th	<del>7,500</del> 5,000	5,000	2,000-5,000
6th	<del>10,000</del> 5,000	<del>7,500</del> 5,000	5,000

~~G. Any enforcement action taken by the Department may be appealed in a manner pursuant to the Administrative Procedures Act, Section 1-23-310, et seq. of the SC Code Laws, 1976, as amended.~~

## SECTION 400

### ~~POLICIES AND PROCEDURES.~~

#### SECTION 400 – POLICIES AND PROCEDURES (II)

##### **~~401. General (II).~~**

~~— A. Policies and procedures addressing each section of this regulation regarding client treatment, care, services, and rights, and the operation of the facility shall be developed and implemented, and revised as required in order to accurately reflect actual facility operation. Facilities shall establish a time period for review of all policies and procedures. These policies and procedures shall be accessible at all times. A hard copy of the client care policies and procedures shall be available or be accessible electronically at each facility.~~

~~— B. The policies and procedures shall describe the means by which the facility shall assure that the standards described in this regulation, which the licensee has agreed to meet as confirmed by his/her application, are met.~~

A. The Facility shall maintain and adhere to written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The Facility shall be in full compliance with the policies and procedures.

B. The written policies and procedures shall include the following:

1. Staffing and training;

2. Reporting incidents, accidents, reportable diseases, closure and zero census;

3. Patient records;

- 4. Admission and Discharge;
- 5. Patient care, treatment, and services;
- 6. Medication management;
- 7. Maintenance including doors, windows, heating, ventilation, air conditioning, fire alarm, electrical, mechanical, plumbing, and for all equipment;
- 8. Infection control and housekeeping;
- 9. Quality Improvement Program; and
- 10. Fire Prevention;

C. The Facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented and signed by the Administrator. All policies and procedures shall be accessible to Facility staff, printed or electronically, at all times.

## **SECTION 500**

### **STAFF:**

#### **SECTION 500 – STAFF AND TRAINING**

##### **501. General (II).**

~~A. Appropriate staff/volunteers~~ The Facility shall develop and implement policies and procedures to provide for appropriate Staff and/or Volunteers in numbers and training ~~shall be provided~~ to suit the needs and condition of the ~~clients~~ Patients and meet the demands of effective emergency on-site action that might arise. Training requirements/qualifications for the tasks each performs shall be in compliance with all local, state, and federal laws, and current professional organizational standards. ~~Direct care staff members/volunteers of the facility, shall not have a prior conviction or pled no contest (nolo contendere) for child or adult abuse, neglect or mistreatment, or have an active dependency on psychoactive substances that would impair his/her ability to perform assigned duties. The facility shall coordinate with applicable organizations that maintain registries should licensed /certified individuals be considered as employees of the facility.~~

~~—B. There shall be a qualified administrator available within a reasonable time and distance in order to appropriately manage the day to day operation of the facility. The administrator shall exercise judgement that reflects that s/he is mentally and emotionally capable of meeting the responsibilities involved in operating a facility to ensure that it is in compliance with these regulations, and shall demonstrate adequate knowledge of these regulations. A qualified staff member shall be designated, in writing, to act in the absence of the administrator.~~

~~—C. Additional staff shall be provided if it is determined that the minimum staff requirements are inadequate to provide appropriate services and supervision to the clients of a facility.~~

~~—D. Staff/volunteers shall be provided the necessary training to perform the duties for which they are responsible in an effective manner.~~

~~E. In 24-hour facilities, no care/treatment/services shall be provided to individuals who are not clients of the facility, except those services provided to family members as part of the client's recovery plan.~~

~~FB. There-~~The Facility shall be maintain accurate information maintained regarding all staff Staff and/or volunteers Volunteers of the facility Facility, to include. The documentation shall include at least current address, phone number, health and work/ and/or training background, as well as current information. ~~All~~ The Facility shall ensure all employees shall be are assigned certain duties and responsibilities that shall be in writing and in accordance with the individual's capability. (II)

~~GC. When care, treatment, or services are provided by another entity, there shall be a~~ Facility engages a source other than the Facility to provide services normally provided by the Facility, the Facility shall maintain documentation of the written agreement with the entity-source that describes how and when the services are to be provided are in accordance with the individualized treatment plan (ITP) and states that the staff/volunteers providing these services are qualified and supervised properly, the exact services to be provided, and that these services are to be provided by qualified individuals. The entity with whom a facility has written agreement-source shall comply with this regulation in regard to-client Patient care, treatment, services, and rights.

D. The Facility shall maintain documentation to ensure the Facility meets staffing requirements in Sections 503, 504, and 505.

## **502. Administrator (II).**

A. Each Facility shall have a full-time Administrator who is responsible for the overall management and operation of the Facility and has at least a bachelor's degree in a related field.

B. A Staff member shall be designated by name or position, in writing, to act in the absence of the Administrator, for example, a listing of the lines of authority by position title, including the names of the individuals filling these positions.

## **503. Staffing for Residential Facilities (I).**

A. All Staff members and/or Volunteers on duty shall be present, awake, and dressed at all times when Patients are present in the Facility. All Staff members and/or Volunteers shall know how to respond to Patient needs and emergencies.

B. Additional Staff shall be provided if it is determined that the minimum Staff requirements are inadequate to provide appropriate services and supervision to the Patients of a Facility.

C. Staffing for Residential Treatment Programs.

1. The number of Staff members that shall be maintained in all Facilities:

a. In each building, there shall be at least one (1) Staff member and/or Volunteer on duty for each ten (10) Patients or fraction thereof present from 7:00 am until 7:00 p.m.

b. In each building, there shall be at least one (1) Staff member and/or Volunteer for each twenty (20) Patients or fraction thereof from 7:00 p.m. until 7:00 a.m.

2. The Facility shall have at least one (1) Physician available during Facility operating hours, either in person or by telephone for consultation and for emergencies.

D. Staffing for Withdrawal Management Programs.

1. In each building, there shall be at least one (1) Direct Care or Counselor Staff member for each ten (10) Patients or fraction thereof on duty at all times.

2. In Residential Facilities providing Medical Withdrawal Management, Staff members and Volunteers shall be under the general supervision of a Physician or registered nurse; a Physician, Licensed Nurse, or other Authorized Healthcare Provider shall be present at all times.

**505. Staffing for Opioid Treatment Programs (I).**

A. The Opioid Treatment Program Physician shall have authority over all medical aspects of care and make treatment decisions in consultation with treatment Staff consistent with the needs of the Patient, clinical protocols, and research findings. The Facility shall have at least one (1) Physician available during dosing and Facility operating hours, either in person or by telephone for consultation and for emergencies.

B. The Facility shall have a pharmacist or other person licensed to dispense Opioid Treatment Program Medications pursuant to the South Carolina Code of Laws who is responsible for dispensing the amounts of Opioid Treatment Program Medications administered and shall record and countersign all changes in dosing schedules.

C. The Facility shall have one (1) Licensed Nurse present at all times Medications are being administered to Patients.

D. The Opioid Treatment Program shall have a least one (1) full-time counselor on staff for every fifty (50) Patients or fraction thereof. Counselors shall be qualified as specified in Section 508.

**5026. Inservice Training (II).**

A. All Facilities shall provide Staff and Volunteers the necessary training to perform the duties for which they are responsible in an effective manner. The Facility shall require all Staff members and Volunteers to complete the necessary training to perform their duties and responsibilities. The Facility shall document all in-service training. Staff training shall be signed and dated by the individual providing the training and the person receiving the training. The signature for the individual providing the training may be omitted for online training.

~~AB. In all facilities,~~ All Facilities shall provide the following training ~~shall be provided~~ to all ~~staff/volunteers~~ Staff and Volunteers, and those clients in Residential treatment program facilities who may be utilized to supplement staffing, ~~within one month of hiring~~ prior to Patient contact and at a frequency as determined by the Facility, but at least annually:

1. The nature of ~~alcohol and other drug addiction~~ Substance Use Disorder, complications of addictions Chemical Dependency, and withdrawal symptoms.

2. Confidentiality of ~~client~~ Patient information and records; and the protection of ~~client~~ Patient rights.

~~BC. In addition to the above, in 24 hour facilities, the following training shall be provided by appropriate resources, e.g., licensed persons, video tapes, books, etc., to all direct client care staff/volunteers prior to client contact and at a frequency as determined by the facility, but at least annually~~ All Residential Facilities

shall provide the following training to all Staff and Volunteers prior to Patient contact and at a frequency as determined by the Facility, but at least annually:

1. Cardio-pulmonary resuscitation to ensure that there is at least one (1) certified individual present when ~~clients~~ Patients are in the ~~facility~~ Facility ~~(detoxification facilities only)~~;
2. Basic first-aid to include emergency procedures as well as procedures to manage and/or care for minor accidents or injuries;
3. Procedures for checking and recording vital signs ~~(for those facilities to which applicable)~~;
4. Management/care of persons with contagious and/or communicable disease, ~~e.g., hepatitis, tuberculosis (TB), Human Immunodeficiency Virus (HIV) infection~~;
5. Medication management ~~(for those facilities to which applicable)~~;
6. Use of restraints and seclusion ~~(detoxification facilities only, if applicable)~~;
7. ~~Seizure management (detoxification facilities only)~~ response training; and
8. ~~For those whose care for clients may involve contact with blood and may be at risk, those~~ OSHA standards regarding bloodborne pathogens.

D. All Opioid Treatment Programs shall provide opioid Medication treatment training to all Staff and Volunteers prior to Patient contact and at a frequency as determined by the Facility, but at least annually.

~~CE. All new staff/volunteers shall be oriented to acquaint them with the organization and environment of the facility, specific duties and responsibilities of the staff/volunteers, and client needs. All Staff members and Volunteers shall have documented orientation to the purpose and environment of the Facility within twenty-four (24) hours of their first day on the job in the Facility.~~

### **5037. Health Status (I).**

A. ~~All staff~~ Staff and ~~volunteers~~ Volunteers who have contact with ~~clients~~ Patients, including food service ~~staff~~ Staff and ~~volunteers~~ Volunteers, shall have a ~~health~~ Health ~~assessment~~ Assessment, as defined in Section 101.X, within twelve (12) months prior to initial ~~client~~ Patient contact. The ~~health~~ Health ~~assessment~~ Assessment shall include tuberculin skin testing as described in Sections ~~1402 and 1403~~ 1702.

B. ~~If a staff member~~ For Staff members and/or volunteer Volunteers is working at multiple ~~facilities~~ Facilities operated by the same ~~licensee~~ Licensee, ~~copies the documented of records for TB tuberculosis screening and the pre-employment health~~ Health ~~assessment~~ Assessment shall be ~~acceptable~~ accessible at each ~~facility~~ Facility, provided that the information is in compliance with this regulation. ~~For any other staff member/volunteer, a copy of the TB screening record shall be acceptable provided the screening had been completed within three months prior to client contact.~~

### **5048. Counselors (II).**

A. Each ~~facility~~ Facility shall have at least one (1) ~~staff~~ Staff ~~counselor~~ Counselor who is fully-certified or licensed. All non-certified and/or licensed ~~counselors~~ Counselors shall be under the direct supervision (on-site) of a ~~an~~ on-site fully-certified and/or licensed Counselor. ~~Staff/volunteers shall be considered qualified to provide clinical counseling services only by one of the following:~~

B. Staff and Volunteers providing clinical counseling services shall have one (1) of the following qualifications:

1. For direct client services Certification:

a. ~~Certification as a Clinical Supervisor or Addictions Counselor I or II~~ under the system administered by the ~~SC South Carolina~~ Association of Alcohol and Drug Abuse Counselors (SCAADAC) Certification Commission, or currently engaged, ~~(as verified and documented in the individual's personnel file), in the SCAADAC South Carolina Association of Alcohol and Drug Abuse Counselors certification process that is to be completed within a three (3)-year period from date of hire as a counselor~~ Counselor; or

b. Certification as ~~an addictions counselor~~ a Counselor by:

(1) The National Association of Alcohol and Drug Abuse Counselors ~~(NAADAC)~~;

(2) An International Certification Reciprocity Consortium-approved certification board; or

(3) Any other ~~SC South Carolina~~ Department of Alcohol and Other Drug Abuse Services ~~(DAODAS)~~-approved credentialing/or certification association or commission; or

~~e~~2. Licensed as a Licensure:

~~(1)a. Licensed as a Psychiatrist by the SC South Carolina~~ Board of Medical Examiners;

~~(2)b. Licensed as a Psychologist by the SC South Carolina~~ Board of Examiners in Psychology;

~~(3)c. Licensed as a Social worker by the SC South Carolina~~ Board of Social Work Examiners; or

~~(4)d. Licensed as a Counselor or therapist by the SC Board of Examiners for Licensure Professional Counselors and Marital and Family Therapists~~ South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists, pursuant to Section 40-75-30, of the SC South Carolina Code of Laws, 1976, as amended.; or

3. Licensure as a Licensed Addiction Counselor Associate by the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists, pursuant to Section 40-75-30, of the South Carolina Code of Laws, 1976, under appropriate supervision. Full licensure must be completed within a three (3)-year period from date of hire as a Counselor.

~~2C. For counselors~~ Counselors in narcotic treatment programs (NTP) Opioid Treatment Programs shall have one (1) of the following qualifications:

~~a~~1. Any of the certifications/or licensures in 504A.1 508.B above; or

~~b~~2. The American Academy of Health Care Providers in the Addictive Disorders; or

~~e~~3. The National Board for Certified Counselors; or



—~~d4.~~ Any other equivalent, nationally-recognized, and ~~(DAODAS)~~ South Carolina Department of Alcohol and Other Drug Abuse Services-approved association or accrediting body that includes similar competency-based testing, supervision, educational, and substantial experience.

—~~3D.~~ In ~~facilities~~ Facilities providing prevention services, ~~counselors~~ Counselors shall have one (1) of the following qualifications ~~For prevention services when provided:~~

—~~a1.~~ Certification by the ~~SC~~ South Carolina Association of Prevention Professionals and Advocates as a Prevention Professional or Senior Prevention Professional; or

—~~b2.~~ In-process of becoming certified as a Prevention Professional. This certification shall be achieved within a ~~thirty-six (336)~~-month period of time from the date of hire as a prevention Counselor.

BE. Any individual employed as a direct-~~client~~ Patient Counselor, ~~NTP Opioid Treatment Program Counselor~~, or prevention services-~~counselor professional~~, to include contracted Staff, who does not obtain his/ or her certification/ or licensing within the above time-periods, shall cease providing counseling services until that certification/ or licensing status is achieved.

F. The Facility shall verify and maintain documentation of each Counselor's qualifications in the individual's Staff record.

## SECTION 600

### REPORTING.

#### SECTION 600 – REPORTING

##### **601. Accidents and Incidents (II).**

A. The ~~licensee~~ Facility shall ~~report~~ maintain a record of each accident and/or incident, including usage of mechanical and/or physical restraints, involving Patients, Staff members or Volunteers, occurring at in the facility ~~Facility to the Department within five (5) days of occurrence or on the Facility grounds. Reports submitted to the Department shall contain only: facility name, license number, type of accident/incident, date of accident/incident occurred, number of Patients/clients directly injured or affected, Patient/client medical record identification number, Patient/client age and sex, number of staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of accident/incident, internal investigation results if cause unknown, a brief description of the accident/incident including location where occurred, and treatment of injuries. The report retained by the facility, in addition to the minimum reported to the Department, shall contain: names of Patient(s)/client(s), staff, and/or visitor(s), the injuries and treatment associated with each Patient/client, staff, and/or visitor. Records of all accidents and incidents shall be retained by the facility for ten (10)~~ The Facility shall retain all documented incidents reported pursuant to this section six (6) years after the patient ~~patient~~ stops receiving services at the facility Facility.

B. The ~~licensees~~ Facility shall ~~report each accident and/or incident~~ the following types of incidents resulting in unexpected death or serious injury to the next of kin or for party responsible for each affected individual ~~party~~ at the earliest practicable hour, not exceeding twenty-four (24) hours of the incident. The ~~licensee~~ Facility shall ~~notify~~ report the following types of incidents to the Department immediately, not to exceed twenty-four (24) hours, via ~~telephone, email or facsimile~~ the Department's electronic reporting system or as otherwise determined by the Department. ~~The licensee shall submit a report of the licensee's investigation of the accident and/or incident to the Department within five (5) days. Accidents and/or incidents requiring reporting include, but are not limited to:~~

1. Confirmed or Suspected Abuse, Neglect or Exploitation (~~Confirmed~~) against a Patient by Facility Staff;

2. ~~Abuse, Neglect or Exploitation (Suspected);~~

3. ~~Adverse medication reaction;~~

4. ~~Client left without notification for more than (24) hours;~~

52. ~~Criminal event Crimes committed against client Patients;~~

63. Death: For Residential Facilities, any Patient's death in the Facility or on the Facility grounds; for Opioid Treatment Programs, any Patient's death regardless of location;

4. Overdose reversal (naloxone);

75. Elopement (Residential Facility only);

8. ~~Fire;~~

96. Bone Fracturefracture of bone or joint fracture;

407. Hospitalization as a result of accident and/or incident;

148. Medication Error;

12. ~~Severe burn;~~

13. ~~Severe hematoma;~~

14. ~~Severe laceration;~~

459. Attempted Suicide; and

160. Use Severe injury involving use of physical restraints.

C. The Facility shall submit a separate written investigation report within five (5) days of every incident required to be immediately reported to the Department pursuant to Section 601.B via the Department's electronic reporting system or as otherwise determined by the Department. Reports submitted to the Department shall contain only: Facility name, License number, type of accident and/or incident, the date of accident and/or incident occurred, number of Patients directly injured or affected, Patient medical record identification number, Patient age and sex, number of Staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of accident and/or incident, internal investigation results if cause unknown, a brief description of the accident and/or incident including location where occurred, and treatment of injuries.

## **602. Fire/ and Disasters (II).**

A. The ~~Department~~ Facility's Administrator or his or her designee shall be notified immediately notify the Department immediately via telephone, e-mail, or fax regarding of any fire in the facility Facility, and

~~The Facility shall submit followed by a complete written report to include fire reports, if any, to be submitted within a time-period determined by the facility Facility, but not to exceed 72 forty-eight (48) hours from the occurrence of the fire.~~

~~B. The Facility's Administrator, or his or her designee, shall notify the Department immediately of Any any natural disaster or fire; that requires displacement of the clients Patients, or jeopardizes or potentially jeopardizes the safety of the clients Patients, shall be reported to the Department via telephone/fax immediately. The Facility shall submit followed by a complete written report which that includes the fire report from the local fire department, if appropriate, submitted within a time-period as determined by the facility Facility, but not to exceed 72 forty-eight (48) hours.~~

### **603. Communicable Diseases and Animal Bites (I).**

~~All The Facility shall report all cases of diseases and animal bites that are required to be reported to the appropriate county health department shall be accomplished in accordance with R.61-20, Communicable Diseases.~~

### **604. Administrator Change.**

~~The Licensee shall notify the Department via email, or a means as otherwise determined by the Department within seventy-two (72) hours of any change in Administrator status. The Department Licensee shall be notified provide the Department in writing by the licensee within ten (10) days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and Administrator and the effective date of the appointment.~~

### **605. Joint Annual Report.**

~~Residential Facilities, e.g., medical providing a Medical detoxification Withdrawal Management Program and Outpatient Facilities providing an Opioid Treatment Program, required by the Department's Planning and Certificate of Need Division to submit a "Joint Annual Report" shall complete and return a "Joint Annual Report" to the South Carolina Revenue and Fiscal Affairs Office this report within the time-period specified by that Division the Department.~~

### **606. Accounting of Controlled Substances (I).**

~~—Any facility Facility registered with the Department's Bureau of Drug Control and the United States federal Drug Enforcement Agency shall report any theft or loss of Controlled Substances to local law enforcement and to the Department's Bureau of Drug Control within five days seventy-two (72) hours of the discovery of the loss and/or theft. Any facility Facility permitted by the SC South Carolina Board of Pharmacy shall report the loss or theft of drugs or devices in accordance with Section 40-43-91 of the SC South Carolina Code of Laws.~~

### **607. Emergency Placements**

~~—In instances where evacuees have been relocated to the facility, the Department shall be notified not later than the following workday of the circumstances regarding the emergency placement and the aggregate number of individuals received.~~

### **6087. Facility Closure.**

A. Prior to the permanent closure of a ~~facility~~ Facility, the ~~Department~~ Licensee shall ~~be notified~~ notify ~~the Department~~ in writing of the intent to close and the effective closure date. Within ~~ten~~ (10) days of the closure, the ~~facility~~ Facility shall notify the Department of the provisions for the maintenance of the records, and the identification of ~~the site where clients are relocated~~ those Patients displaced, the relocated site, and the dates. On the date of closure, the ~~license~~ License shall be returned to the Department.

B. In instances where a ~~facility~~ Facility temporarily closes, the ~~Department~~ Licensee shall ~~be given written notice within a reasonable time in advance of closure~~ notify the Department in writing within fifteen (15) calendar days prior to temporary closure. In the event of temporary closure due to an emergency, the Facility shall notify the Department within twenty-four (24) hours of the closure via telephone, email, or fax. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the location where the ~~clients~~ Patients have been and/or will be transferred ~~(24-hour facility only)~~, the manner in which the records are being stored, and the anticipated date for re-opening. ~~The Department shall consider, upon appropriate review, the necessity of inspecting the facility prior to its re-opening. If the facility is closed for a period longer than one year, and there is a desire to re-open, the facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.~~

C. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards of the Facility prior to its reopening. If the Facility is closed for a period longer than one (1) year, and there is a desire to re-open, the Facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new Facility.

#### **609608. Zero Census.**

—In instances when there have been no ~~clients~~ Patients in a ~~facility~~ Facility for any reason for a period of ~~ninety~~ (90) days or more ~~for any reason~~, the ~~facility~~ Facility shall notify the Department in writing that there have been no admissions, no later than the one hundredth (100<sup>th</sup>) calendar day following the date of departure of the last active ~~client~~ Patient. At the time of that notification, ~~the Department will~~ shall consider, upon appropriate review of the situation, the necessity of inspecting the ~~facility~~ Facility prior to any new and/or readmissions to the ~~facility~~ Facility. In the event the ~~facility~~ Facility is at zero census or temporarily closed, the ~~licensee~~ Licensee is still required to apply and pay the licensing fee to keep the License active. If the ~~facility~~ Facility has no ~~clients~~ Patients for a period longer than one (1) year, and there is a desire to admit a ~~client~~ Patient, the ~~facility~~ Facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new ~~facility~~ Facility.

### **SECTION 700**

#### **CLIENT RECORDS.**

#### **SECTION 700 - PATIENT RECORDS**

#### **701. Content (II).**

A. The ~~facility~~ Facility shall initiate and maintain a ~~client~~ Patient record for every individual screened, assessed and/or treated. The record shall contain sufficient information to identify the ~~client~~ Patient and the agency and/or person responsible for each ~~client~~ Patient, support the diagnosis, justify the treatment, and describe the response and/or reaction to treatment. The record contents shall also include the provisions for release of information, ~~client~~ Patient rights, consent for treatment (approval by parent and/or guardian of ~~client~~ Patient), ~~medications~~ Medications prescribed and administered, and diet ~~(24-hour Residential~~

Facilities only), documentation of the course and results, and promote continuity of treatment among treatment providers, consistent with acceptable standards of practice. In ~~facilities~~ Facilities providing services for ~~mothers~~ Parents with children, the name and age of each child shall be maintained in the ~~facility~~ Facility. All entries shall be written legibly in ink ~~or, typed, or electronic media~~, and signed and dated ~~or documented in the electronic medical record~~.

B. If the Facility permits any portion of a Patient's record to be generated by electronic or optical means, there shall be policies and procedures to prohibit the use or authentication by unauthorized users.

~~BC.~~ Specific entries and documentation shall include at a minimum, ~~if applicable~~:

1. Consultations by Physicians or other ~~authorized healthcare providers~~ Authorized Healthcare Providers;

2. Signed and dated ~~Orders~~ orders and recommendations for all ~~medication~~ Medication, care, treatment, services, procedures, and diet (Residential Facilities only) from Physicians or other ~~authorized healthcare providers~~ Authorized Healthcare Providers, which shall be completed prior to, or at the time of admission, and subsequently, as warranted; (I)

~~3. Care/treatment/services provided; medications administered and procedures followed if an error is made; special procedures and preventive measures performed; notes of counseling sessions; and notes of any other significant observation(s);~~

~~4. Provisions for routine and emergency medical care, to include the name and telephone number of the client's physician, plan for payment, and plan for securing drugs.~~

3. Intake screening and initial physical assessment completed by the nurse or Counselor;

4. A signed and dated original consent for treatment; (I)

5. The report of the mental status examination and other mental health assessments as defined in Section 101.G. as appropriate;

6. Notes of counseling sessions and any other changes in the Patient's mental and physical condition; and

7. Medication management and administration, and treatment records.

8. Discharge summary, completed within a time-period as determined by the Facility, but no later than three (3) business days, and shall include at minimum:

a. Time and circumstances of Discharge or transfer, including condition at Discharge or transfer, or death; and

b. The recommendations and arrangements for further treatments, including Aftercare.

~~C. With the exception of those enrolled in primarily educational-related programs, each client, to include those being monitored or case-managed for services received elsewhere, shall have a written ITP.~~

~~D. The ITP shall contain specific goal-related objectives based on the needs of the client as identified during the assessment phase including adjunct support service needs and other special needs. The plan will~~

~~also include the methods and strategies for achieving these objectives and meeting these needs in measurable terms with expected achievement dates. The type and frequency of counseling as well as counselor assignment shall be included. The criteria for terminating specified interventions will be included in the plan. ITP's shall be reviewed on a periodic basis as determined by the facility and/or revised as changes in client needs occur.~~

**EXCEPTION:** The ITP description in this section is not applicable to detoxification facilities. See Section 3406.

~~— E. The client shall participate in the development of his/her ITP. The client and primary counselor shall sign and date this plan as documentation of their participation in its development.~~

~~— F. There shall be a discharge summary, completed within a time period as determined by the facility, and a copy provided to the client, which shall include at minimum:~~

~~—— 1. Time and circumstances of discharge or transfer, including condition at discharge or transfer, or death;~~

~~—— 2. The recommendations and arrangements for further treatment, including aftercare.~~

D. Electronic signatures may be used in the Patient record if they are in accordance with applicable laws and regulations, and require a signature. Electronic authorization shall be limited to a unique identifier (confidential code) used only by the individual making the entry to preclude the improper or unauthorized use of any electronic signature

## **702. Authentication of Signatures (II).**

~~— A. Those entries in the client record that require authentication shall be defined by the facility. Any entry in the client record shall have the author identified.~~

~~— B. Facilities employing electronic signatures or computer generated signature codes shall ensure authentication and confidentiality.~~

## **702. Screening (I).**

A. The Facility shall have written protocols for screening individuals presenting for admission. The Facility shall maintain documentation of the rationale for the denial of admission and referral of the individual as applicable.

B. All screening shall be documented for each individual presenting to the Facility.

C. For Facilities providing a Medical Withdrawal Management Program, the Intake screening shall be conducted by a Physician or other Authorized Healthcare Provider to determine the need for medical services or referral for serious medical complications.

D. For Facilities providing Social Withdrawal Management, the Intake screening shall be provided by Staff or Volunteers trained to monitor the Patient's physical condition.

E. For Facilities providing an Opioid Treatment Program, screening shall include:

—— 1. Evidence of tolerance to an opioid;

2. History of physiological dependence for at least one (1) year prior to admission. The Opioid Treatment Program Physician may waive the one (1)-year history of dependence when the Patient seeking admission meets one (1) of the following criteria:

a. The Patient has been recently released from a penal or chronic care Facility with a high risk of relapse;

b. The Patient has been previously treated and is at risk of relapse;

c. The Patient is pregnant and does not exhibit objective signs of opioid withdrawal or physiological dependence;

3. Evidence of multiple and daily self-administration of an opioid;

4. Reasonable attempts to confirm that the applicant is not enrolled in one (1) or more other Opioid Treatments Programs;

5. Controlled Substance history to determine dependence on opium, morphine, heroin, or any derivative or synthetic controlled substance of that group. The substance history shall include:

a. Controlled Substance(s) utilized;

b. Frequency of use;

c. Amount utilized;

d. Duration of use;

e. Age when first utilized;

f. Route of administration;

g. Previous treatment(s);

h. Unsuccessful efforts to control use; and

i. Inappropriate use of prescribed opioids.

### **703. Assessment for Residential Treatment Programs (II).**

A written assessment of the Patient in accordance with Section 101.G shall be conducted by a designated Counselor as evidenced by his or her signature and date within a time-period determined by the Facility, but no later than five (5) business days after admission.

### **704. Assessment for Withdrawal Management Programs (II).**

A written clinical Assessment of the Patient completed by a Licensed Nurse as evidenced by his or her signature and date in accordance with Section 101.G shall be conducted prior to the delivery of treatment. The clinical Assessment shall include a review of the Patient's Controlled Substance misuse/usage and treatment history.

#### **705. Bio-Psycho-Social Assessment for Opioid Treatment Program (II).**

A comprehensive Bio-Psycho-Social Assessment shall be completed by the Patient's primary Counselor once the Patient is stabilized but not later than thirty (30) calendar days following admission. The Assessment shall include:

A. A description of the historical course of the Chemical Dependence to include substances of misuse such as alcohol and tobacco, amount, frequency of use, duration, potency, and method of administration, previous withdrawal from Opioid Treatment Program Medication and/or treatment attempts, and any psychological or social complication.

B. A health history regarding chronic or acute medical conditions, such as HIV, STDs, hepatitis (B, C, D), TB, diabetes, anemia, sickle cell trait, pregnancy, chronic pulmonary diseases, and renal diseases.

C. Information related to the family of the Patient.

#### **706. Individual Plan of Care (II).**

The Facility shall develop an Individual Plan of Care with participation by the Patient or responsible party and Interdisciplinary Team as evidenced by their signatures and dates. The Individual Plan of Care shall contain specific goal-related objectives based on the needs of the Patient as identified during the Assessment phase, including adjunct support service needs and other special needs. The Individual Plan of Care shall also include the methods and strategies for achieving these objectives and meeting these needs in measurable terms with expected achievement dates. The type and frequency of counseling, as well as Counselor assignment, shall be included. The criteria for terminating specified interventions shall be included in the Individual Plan of Care. Individual Plan of Care shall be reviewed on a periodic basis as determined by the Facility and/or revised as changes in Patient needs occur.

A. In Residential Treatment Programs, an Individual Plan of Care shall be completed no later than seven (7) calendar days after admission.

B. For a Residential Facility offering a Withdrawal Management Program, an Individual Plan of Care shall be completed for supervised withdrawal within a time-period determined by the Facility's policies and procedures, but no later than seven (7) business days after admission.

#### **707. Individual Plan of Care for Opioid Treatment Program (II).**

A. The Facility shall develop and document an Individual Plan of Care within thirty (30) calendar days of admission with participation by the Patient and the primary Counselor.

B. The primary Counselor shall review the Patient progress in treatment and accomplishment of Individual Plan of Care goals not less than every ninety (90) calendar days during the first year of treatment and every six (6) months thereafter. The Counselor and Patient or responsible party shall sign and date any changes.

#### **7038. Record Maintenance.**

A. The ~~licensee~~ Licensee shall provide accommodations, space, supplies, and equipment ~~adequate~~ for the protection, ~~and~~ storage, and maintenance of ~~client~~ Patient records. Patient records shall be stored in an organized manner.



B. ~~The client Patient~~ record is confidential and ~~may~~ shall be made available only to individuals authorized by the ~~facility~~ Facility and in accordance with local, state, and federal laws, codes, and regulations. ~~The written disclosure of information shall include: (II)~~

- ~~— 1. The name of the person/agency to which the information is to be disclosed;~~
- ~~— 2. The specific information to be disclosed;~~
- ~~— 3. The purpose of the disclosure;~~
- ~~— 4. A stipulation that the consent for disclosure is only for a specified period of time;~~
- ~~— 5. The signature of the client, date signed, and witness's signature.~~

C. ~~The Facility shall maintain Records~~ records generated by organizations ~~/ or~~ individuals contracted by the ~~facility~~ Facility for care or services, ~~treatment, or care shall be maintained by the facility that has admitted the client.~~

~~D. The facility shall determine the medium in which information is stored.~~

~~ED. Upon discharge~~ Discharge of a ~~client Patient~~, the record shall be completed ~~and filed in an inactive/closed file~~ within a time period ~~determined by the facility, but not to exceed thirty (30) calendar days; and filed in an inactive or closed file shall be maintained by the licensee~~ Licensee.

~~FE. Records of adult clients~~ Patients may be destroyed after six (6) years following ~~discharge~~ Discharge of the ~~client Patient~~. Records of ~~minors~~ Minors shall be retained for six (6) years or until majority, whichever period of time is greater. Other regulation-required documents, e.g., ~~medication~~ Medication destruction, fire drills, etc., shall be retained for at least twelve (12) months or since the last ~~the Department general inspection routine Inspection~~, whichever is the longer period.

F. Records of current Patients are the property of the Facility and shall be maintained at the Facility and shall not be removed without court order.

G. In the event of change of ownership, all active ~~client Patient~~ records or copies of active ~~client Patient~~ records shall be transferred to the new owner(s).

~~H. Records of clients are the property of the facility and may not be removed without court order.~~

**EXCEPTION:** When a ~~client Patient~~ transfers from one licensed ~~facility~~ Facility to another within the provider network (same ~~licensee~~ Licensee) the original record may follow the ~~client Patient~~; the sending ~~facility~~ Facility shall maintain documentation of the ~~client's Patient's transfer/discharge~~ transfer and/or Discharge dates and identification information.

## SECTION 800 – ADMISSION (I)

### **801. General.**

Individuals seeking admission shall be identified as appropriate for the level of care or services, treatment, or procedures offered. The Facility shall establish admission criteria that are consistently applied and

comply with state and federal laws and regulations. The Facility shall admit only those persons whose needs can be met within the accommodations and services provided by the Facility.

## **802. Residential Facilities.**

A. Residential Facilities shall not admit any person who, because of acute mental illness or intoxication, presents an immediate threat of harm to him or herself and/or others

B. Parental consent shall be obtained for all persons under eighteen (18) years of age prior to admission to a Residential Facility. If any court of competent jurisdiction declares a person under eighteen (18) years of age an emancipated Minor, such person may be admitted to the Facility without parental consent.

C. Residential Treatment Programs shall not admit any person needing Withdrawal Management services, hospitalization, or nursing home care.

D. Withdrawal Management Programs.

1. Appropriate admission to a Facility providing Withdrawal Management shall be determined by a licensed or certified Counselor and subsequently shall be authorized by a Physician or other Authorized Healthcare Provider in accordance with Section 1100.

2. Withdrawal Management Programs shall not admit any person needing hospitalization, Residential Treatment Program, or nursing home care.

3. Parental consent shall be obtained for all persons under eighteen (18) years of age prior to admission to a Residential Treatment Program. If any court of competent jurisdiction declares a person under eighteen (18) years of age an emancipated Minor, then such person may be admitted to the program without parental consent.

## **803. Opioid Treatment Programs.**

A. Persons shall not be admitted to the Opioid Treatment Program to receive opioids for pain management only. Appropriate referrals by the Opioid Treatment Program Physician shall be made as necessary, e.g., pain management specialist.

B. No person under eighteen (18) years of age shall be admitted to an Opioid Treatment Program unless a parent, legal guardian, or responsible adult consents in writing to such treatment.

## **SECTION 800**

### **CLIENT CARE/TREATMENT/SERVICES.**

### **SECTION 900 – PATIENT CARE, TREATMENT, AND SERVICES**

## **801901. General-(H).**

~~— A. Individuals seeking admission shall be identified as appropriate for the level of care or services, treatment, or procedures offered. The facility shall establish admission criteria that are consistently applied and comply with state and federal laws and regulations. The facility shall admit only those persons whose needs can be met within the accommodations and services provided. (I)~~

~~BA.~~ BA. The Facility shall provide Patient Care and /treatment/services relative to the needs of the client, e.g., counseling, diet, medications, to include medical including routine and emergency medical care situations, as identified in the client Patient record and as ordered by a Physician or other appropriate Authorized health Health care Care professionals Provider. Care and services shall be provided, and coordinated among those responsible during the treatment process and modified as warranted based on any changing needs of the client Patient, and detailed in the Individual Plan of Care. (I)

~~C.~~ C. For 24-hour Facilities:

~~1. Clients shall receive, as needed, appropriate assistance in activities of daily living;~~

~~2. Clients shall be neat, clean, and appropriately and comfortably clothed;~~

~~3. Clients shall be provided necessary items and assistance, if needed, to maintain their personal cleanliness;~~

~~4. An adequate supply of recreational supplies shall be available to clients to meet their recreational needs;~~

~~5. Opportunities shall be provided for participation in religious services. Reasonable assistance in obtaining pastoral counseling shall be provided upon request by the client.~~

~~DB.~~ DB. Care, treatment, and services shall be rendered effectively and safely in accordance with orders from physicians Physicians, other authorized healthcare providers Authorized Healthcare Providers, and certified and/or licensed counselors Counselors, and precautions taken for clients Patients with special conditions, e.g., pacemakers, wheelchairs, etc. (I)

~~EC. Clients~~ EC. The Facility shall document that Patients shall be were offered the opportunity to participate in aftercare/continuing care Aftercare and/or Continuing Care programs offered by the facility Facility or through referral. (II)

~~F.~~ F. Precautions shall be taken for the protection of the personal possessions of the clients, including their personal funds. The facility may secure the personal funds of the client provided the client Patient authorizes the facility to do so. The facility shall maintain an accurate accounting of the funds, including evidence of purchases by facility on behalf of the clients. No personal monies shall be given to anyone, including family members, without written consent of the client. If money is given to anyone by the facility, a receipt shall be obtained.

~~GD.~~ GD. In the event of closure of a facility Facility for any reason, the facility Facility shall ensure continuity of treatment and/or care by promptly notifying the client's Patient's attending physician Physician or other authorized healthcare provider Authorized Healthcare Provider or counselor Counselor and arranging for referral to other facilities Facilities at the direction of the physician Physician or other authorized healthcare provider Authorized Healthcare Provider or counselor Counselor. The facility shall document the notification and referral in the Patient's medical record.

~~H.~~ H. The provision of care/treatment/services to clients shall be guided by the recognition of and respect for cultural differences to assure reasonable accommodations will be made for clients with regard to differences, such as, but not limited to, religious practice and dietary preferences.

## **902. Residential Facilities. (II)**

A. Patients shall receive assistance in activities of daily living as documented in the Individual Plan of Care.

B. Patients shall be provided necessary items and assistance to maintain their personal hygiene.

C. Opportunities shall be provided for participation in religious services. Assistance in obtaining pastoral counseling shall be provided upon request by the Patient.

D. Precautions shall be taken for the protection of the personal possessions of the Patients, including their personal funds. The Facility may secure the personal funds of the Patient provided the Patient authorizes the Facility to do so. The Facility shall maintain an accurate accounting of the funds, including evidence of purchases by Facility on behalf of the Patients. No personal monies shall be given to anyone, including family members, without written consent of the Patient. If money is given to anyone by the Facility, a receipt shall be obtained.

E. Residential Treatment Programs shall document in the Patient's medical record that the Facility has provided or made available the following:

1. Specialized professional consultation, supervision, and direct affiliation with other levels of treatment;

2. Arrangements for appropriate laboratory and toxicology tests as needed;

3. Counselors to assess and treat Patients for Substance Use Disorders and obtain and interpret information regarding the needs of the Patients;

4. Counselors to provide a planned regimen of twenty-four (24) hour professionally-directed evaluation, care, and treatment services for persons with Substance Use Disorders and their families to include individual, group, and/or family counseling directed toward specific Patient goals indicated in his or her Individual Plan of Care;

5. Educational guidance and educational program referral when indicated; and

6. Vocational counseling for any Patient when indicated. For those not employed, Staff and/or Volunteers shall facilitate the Patient's pursuit of employment search;

F. Withdrawal Management Programs.

1. Facilities Offering a Medical Withdrawal Management Program shall document in the Patient's medical record that the facility has provided the following:

a. Continuing observation and monitoring of each Patient's condition to recognize and evaluate significant signs and symptoms of medical distress and take appropriate action. Each Patient's general condition, including vital signs, shall be documented at a frequency as determined by the Facility, but not less than three (3) times during the first seventy-two (72) hours of admission to the Facility;

b. A plan for supervised withdrawal, to be implemented upon admission;

c. Counseling designed to motivate Patients to continue in the treatment process and referral to the appropriate treatment modality.

2. Facilities offering a Social Withdrawal Management Program shall document in the Patient's medical record that the Facility has provided the following:

a. Development of an Individual Plan of Care for supervised withdrawal;

b. Continuing observation of each Patient's condition to recognize and evaluate significant signs and symptoms of medical distress and take appropriate action; and

c. Counseling designed to motivate Patients to continue in the treatment process.

3. Facilities providing a Withdrawal Management Program shall provide room, dietary service, care, and supervision necessary for the maintenance of the .

### **903. Facilities Providing an Opioid Treatment Program.**

#### **A. Services (II).**

1. Services shall be directed toward reducing or eliminating the use of illicit Controlled Substances, criminal activity, or the spread of infectious disease while improving the quality of life and functioning of the Patient. Opioid Treatment Programs shall follow rehabilitation stages in sufficient duration to meet the needs of the Patient. These stages include initial treatment, early stabilization, long-term treatment, medical maintenance, and immediate emergency treatment when needed.

2. The Opioid Treatment Program shall directly provide, contract, or make referrals, for services based upon the needs of the Patient.

3. As part of Substance Use Disorder rehabilitative services provided by the Opioid Treatment Program, each Patient shall be provided with individual, group, and family counseling as based on needs identified during the assessment. The frequency and duration of counseling provided to Patients shall be determined by the needs of the Patient and be consistent with the Individual Plan of Care. Counseling shall address, as a minimum:

a. Treatment and recovery objectives included in the Individual Plan of Care, as well as education regarding HIV, Hepatitis, and other infectious diseases. HIV testing shall be made available as appropriate, while maintaining Patient confidentiality;

b. Concurrent substance misuse;

c. Involvement of family and significant others with the informed consent of the Patient;

d. Providing treatment groups; and

e. Guidance in seeking alternative therapies, if applicable.

#### **B. Support Services.**

1. The Opioid Treatment Program shall ensure that a comprehensive range of support services, including, but not limited to, vocational, educational, employment, legal, mental health and family problems, medical, Substance Use Disorder, HIV or other communicable diseases, pregnancy and prenatal care, and social services are made available to Patients who demonstrate a need for such services. Support

services may be provided either directly or by appropriate referral. Support services recommended and utilized shall be documented in the Patient record.

2. When appropriate, the Opioid Treatment Program shall link the Patient with an educational program, and vocational employment services. Deviations from compliance with these outcomes shall be documented in the Patient's record.

3. The Opioid Treatment Program shall establish and utilize formal linkages with community-based treatment services, through an established set of procedures for coordinating care with Physicians or other health or behavioral care providers when appropriate.

4. The Opioid Treatment Program shall establish linkages with the criminal justice system to encourage continuous treatment of individuals incarcerated or on probation and parole.

#### C. Services to Pregnant Patients in an Opioid Treatment Program (II).

1. The Facility shall make reasonable effort to ensure that pregnant Patients receive prenatal care by a Physician and that the Physician is notified of the Patient's participation in the Opioid Treatment Program when the Facility becomes aware of the pregnancy.

2. The Opioid Treatment Program shall provide, through in-house services or referral, and document in the Individual Plan of Care, appropriate services and interventions for the pregnant Patient to include:

a. Physician consultation at least monthly;

b. Nutrition counseling; and

c. Parenting training to include newborn care, health and safety, parent/infant interaction, and bonding.

3. The Facility shall maintain signed documentation of a Patient's acknowledgement of refusal of prenatal care.

4. Opioid Treatment Program FDA-approved Medication for opioid treatment dosage levels shall be maintained at an appropriate level for pregnant Patients as determined by the Opioid Treatment Program Physician and documented in the Patient's record. (I)

5. When a pregnant Patient chooses to discontinue participation in the Opioid Treatment Program, the program Physician, in coordination with the attending obstetrician, shall supervise the termination process.

#### **904. Substance Use Testing for Opioid Treatment Programs (II).**

A. Substance use testing shall be used as a clinical tool for the purposes of diagnosis and in the development of Individual Plans of Care.

B. Substance use testing for the presence of Opioid Treatment Program Medication, benzodiazepines, cocaine, opiates, marijuana, amphetamines, and barbiturates, as well as other substances, when clinically indicated by the Opioid Treatment Program Physician, shall be conducted at a frequency as determined by the Opioid Treatment Program.

C. Results of substance use testing shall be addressed by the primary Counselor with the Patient, in order to intervene in Controlled Substance use behavior.

D. The Opioid Treatment Program shall establish and implement written testing procedures, including random collection of substance testing samples, to effectively minimize the possibility of falsification of the sample, to include security measures for prevention of tampering.

E. Patients granted take-home dosages shall undergo random substance use testing on a monthly basis. For Patients whose substance use testing reports indicate positive results for any illicit substances, non-prescription Medications, or a negative result of Opioid Treatment Program Medication, the frequency for substance use testing shall be determined by the Opioid Treatment Program Physician or other Authorized Healthcare Provider. Documentation of the rationale for the frequency shall be documented in the Patient's medical record.

F. Only those laboratories certified in accordance with the federal Clinical Laboratories Improvement Amendments shall be utilized by the Opioid Treatment Program for urinalysis.

#### **905. Orientation for Patients Admitted to an Opioid Treatment Program.**

Patient orientation shall be accomplished within seven (7) calendar days of admission and documented in the Patient record. The orientation shall include:

A. Opioid Treatment Program guidelines, rules, and regulations;

B. Confidentiality;

C. Substance use testing procedure;

D. Administering Opioid Treatment Program Medication;

E. Signs and symptoms of an overdose and when to seek emergency assistance;

F. Discharge procedures;

G. Treatment phases;

H. HIV/AIDS information and education;

I. Patient rights (See Section 1000);

J. The nature of Substance Use Disorders and recovery including misunderstandings regarding methadone or other opioid treatment Medication; and

K. For pregnant Patients, risk to the unborn child.

#### **802906. Transportation.**

~~Twenty-four hour~~Residential facilities-Facilities shall provide or assist in securing local transportation for ~~clients~~Patients for emergent or non-emergent health reasons to health care providers such as, but not limited to, ~~physicians~~Physicians, dentists, physical therapists, or for treatment at renal dialysis clinics.

### **803907. Safety Precautions/ and Restraints (I).**

~~A. No restraint, neither~~Periodic or continuous mechanical nor, physical, including seclusion, or chemical restraints during routine care of a Patient shall not be used in the facility except, nor shall Patients be restrained for Staff convenience or as a substitute for care or services. However, in cases of extreme emergency emergencies when a client Patient is a danger to him/ or herself or others, and then only mechanical and/or physical restraints may be used as ordered by a physician Physician or other authorized healthcare provider Authorized Healthcare Provider, and until appropriate medical care can be secured. Such orders shall include the reason for use of the restraint/seclusion, the type of restraint that may be used, the maximum time the restraint may be used or the client may be placed in seclusion, and instructions for observing the client while in physical restraint/seclusion if different from the facility's written procedures. Clients certified by a physician or other authorized healthcare provider as requiring restraint/seclusion for more than 24 hours shall be transferred to an appropriate facility. Only those devices specifically designed as restraints may be used.

~~— B. During the course of routine treatment/care (non-emergent conditions), periodic or continuous restraint usage shall not be allowed.~~

~~— C. Restraints/seclusion shall not be used for staff convenience or as a substitute for treatment.~~

~~— D. Should it be necessary to temporarily restrain in emergency situations, the facility shall ensure that clients placed in physical restraints or seclusion are monitored at a frequency as determined by the facility, but at least every 15 minutes. Clients shall be provided bathroom privileges, offered fluids, given medications as prescribed, given the opportunity for nourishment, if desired, at regularly scheduled mealtimes, and if the client is in a restraint, given an opportunity for motion and exercise.~~

B. Emergency restraint orders shall specify the reason for the use of the restraint, the type of restraint to be used, the maximum time the restraint may be used, and instructions for observing the Patient while restrained, if different from the Facility's written procedures. Patients certified by a Physician or other Authorized Healthcare Provider as requiring restraint for more than twenty-four (24) hours shall be transferred to an appropriate Facility.

C. During emergency restraint, Patients shall be monitored at least every fifteen (15) minutes and provided with an opportunity for motion and exercise at least every thirty (30) minutes. Prescribed Medications and treatments shall be administered as ordered, and Patients shall be offered nourishment and fluids and given bathroom privileges.

D. The use of mechanical restraints shall be documented in the Patient's record, and shall include the date and time implemented, the length of time restrained, observations while Patient is restrained.

### **804908. TreatmentServices offor Minors (II).**

~~— A. Minors shall not be admitted to Residential treatment program facilities (with the exception of facilities for mothers with children) or detoxification facilities, except only by request to the Department on a case-by-case basis. These requests shall include:~~

~~—— 1. A statement that the facility is able to provide services and accommodations for the minor;~~

~~—— 2. A statement of agreement by parent(s) or legal guardian.~~



~~B. If the staff/volunteer considers consultation with the parents/guardians of minors regarding treatment issues to be appropriate without the consent of the minor, the reasons for such consultation shall be explained to the parents/guardians upon the minor's admission to the facility.~~

~~CA. In 24-hour facilities-Residential Facilities, minors-Minors shall be housed separately from adults except in facilities-Facilities providing services for mothers-Parents with children.~~

~~DB. In those instances where minors-Minors are served, the facility-Facility shall ensure that the special needs of these clients-Patients are addressed, including, but not limited to, education-related considerations.~~

~~**EXCEPTION:** A facility may admit a person 16 years or older to an outpatient or NTP facility, or to a facility for mothers with children; a child under 16 years of age may be admitted to these facilities with written consent of the parent or legal guardian.~~

C. The Facility shall ensure treatment and counseling are conducted to meet the physical, mental, and emotional developmental needs of the Minor.

D. The Facility shall refer Minors who require special medical needs to a Physician who has clinical experience with Minors and dependency. The Facility shall monitor Minors for treatment reactions that may be developmentally detrimental. A plan shall be in place in the event that special medical care is required.

## **805909. Referral Services.**

A. Referrals for care and/or services shall not be made to unlicensed ~~facilities-Facilities~~ if such ~~facilities-Facilities~~ are required to be licensed. (II)

B. The ~~facility-Facility~~ shall ~~offer-current~~provide information regarding appropriate self-help groups to ~~clients-Patients~~ and encourage their participation in such activities, and document the information was provided in the Patient's record.

C. ~~Referral services shall be made available to individuals ineligible for admission to the facility's Facility's programs.~~ The facility shall maintain documentation of the rationale for the denial of admission and referral for services offered to the Patient as applicable.

D. A community resource file shall be developed, maintained, and used for proper ~~client-Patient~~ referral and placement. The file shall ~~contain~~include a listing of services, fees, hours of operation, and contact person as well as material to be provided to the ~~client-Patient~~. The Facility shall provide the Patient with Information information and offer referralregarding-for community resources such as transportation, hospital emergency services, and ambulance services, ~~and information and referral services shall be made available to clients.~~

## **SECTION 900**

### **CLIENT RIGHTS AND ASSURANCES.**

#### **SECTION 1000 – PATIENT RIGHTS AND ASSURANCES**

## **9011001. Informed Consent (II).**

~~All treatment, to include any new or innovative treatment or any research-oriented treatment or evaluation, shall be thoroughly explained to the client, to include the potential for any adverse effects/consequences of the specified treatment or research. In all instances of treatment, the client must voluntarily choose to participate in the program. The client shall be informed of any changes in treatment unless the client has waived, in writing, such consent.~~

A. Upon admission, there shall be a written, signed, and dated informed consent between the Patient and the Facility. The informed consent shall include at least the following:

1. An explanation of the specific care, services, and/or equipment provided by the Facility, such as, administration of Medication, provision of special diet as necessary, assistance with bathing, toileting, feeding, dressing, and mobility;

2. Discharge and transfer provisions to include the conditions under which the Patient may be Discharged, and the agreement terminated, and the disposition of personal belongings; and

3. Documentation of the explanation of the Patient's rights (see Section 1002) and the grievance procedure.

4. Each person enrolling in an Opioid Treatment Program shall be notified of the autopsy provision in South Carolina Code Section 44-53-750 as a part of such person's informed consent.

B. The provision of care and services to Patients shall be guided by the recognition of and respect for cultural differences to ensure reasonable accommodations shall be made for Patients with regard to differences, such as, but not limited to, religious practice and dietary preferences.

## **9021002. Client-Patient Rights (II).**

~~A. Client-Patient rights shall be guaranteed and prominently displayed in a public area. Documentation of the explanation of the Patient's Bill of Rights shall be maintained in the Patient's medical record. The facility shall inform the client in writing of these Patient rights, to shall include, as a minimum:~~

1. The opportunity to participate in the ~~ITP~~ Individual Plan of Care;
2. Informed consent for treatment;
3. Grievance and/or complaint procedures, including the address and phone number of the Department, and a provision prohibiting retaliation should the grievance right be exercised;
4. Confidentiality of ~~client~~ Patient records;
5. Respect for the ~~client's~~ Patient's property (Residential Facilities Only);
6. Freedom from Abuse, Neglect, and ~~exploitation~~ Exploitation; (I)
7. Privacy in visits unless contraindicated in the recovery and treatment process or as ordered by a ~~physician~~ Physician or other ~~authorized healthcare provider~~ Authorized Healthcare Provider;
8. Privacy during treatment and while receiving personal care; and
9. Respect and dignity in receiving care, treatment, and services.

~~B. Clients~~ For Facilities providing Residential Services, the Patients shall be assured freedom of movement. ~~Clients~~ Patients shall not be locked in or out of their rooms or any common usage areas, e.g., dining, sitting, activity rooms, in the ~~facility~~ Facility, or in or out of the ~~facility~~ Facility building. (I)

C. Care/~~treatment~~/ and services and items provided by the ~~facility~~ Facility, the charge, and those services that are the responsibility of the ~~client~~ Patient shall be delineated in writing and the ~~client~~ Patient shall be made aware of such charges and services as verified by his/ or her signature.

D. The ~~facility~~ Facility shall comply with all ~~relevant current~~ federal, state, and local laws and regulations related to discrimination, e.g., Title VII, Section 601 of the Civil Rights Act of 1964, ADA, and ensure that there is no discrimination with regard to source of payment in the recruitment, location of ~~client~~ Patient, acceptance or provision of goods and services to ~~clients~~ Patients or potential ~~clients~~ Patients, provided that payment offered is not less than the cost of providing services.

E. In Residential Facilities, no care and/or treatment and/or services shall be provided to individuals who are not Patients of the Facility, except those services provided to family members as part of the Patient's recovery plan.

### **9031003. Discharge/ and Transfer.**

A. Unless a ~~client~~ Patient is under court order or detained subject to a pending judicial process, a ~~client~~ Patient may be transferred or ~~discharged~~ Discharged only for medical reasons, the welfare of the ~~client~~ Patient, the welfare of other ~~clients~~ Patients of the ~~facility~~ Facility, lack of progress or participation in treatment, or successful completion of the program. ~~She He or she~~ shall be given written notice of ~~discharge~~ Discharge except when the health, safety, or well-being of other ~~clients~~ Patients of the ~~facility~~ Facility would be endangered.

~~—B. The conditions under which information regarding applicants or clients may be disclosed/released, including disclosure/release in client health emergency situations, shall be established by the facility.~~

~~CB.~~ When a ~~client~~ Patient is transferred from one ~~facility~~ Facility to another, e.g., from a detoxification facility to a hospital, appropriate information from his/her ~~client record~~ a transfer summary, to include copies of relevant documents, shall be forwarded to the receiving ~~facility~~ Facility within a time-period as determined by the ~~facility~~ Facility but not to exceed seventy-two (72) hours from transfer. The ~~facility~~ Facility shall ensure that ~~medication~~ Medication, personal possessions /and funds of the ~~client~~ Patient, and other appropriate items are forwarded to the receiving ~~facility/site~~ Facility and/or site in a manner that ensures continuity of care and/or treatment and/or services and maximum convenience to the ~~client~~ Patient.

C. A Patient transferring from another Opioid Treatment Program shall have a Physical Examination upon admission and have his or her dose determined by a Physician prior to receiving the first dosage.

## **SECTION 1000**

### **CLIENT PHYSICAL EXAMINATION-**

#### **SECTION 1100 – PATIENT PHYSICAL EXAMINATION**

### **1001. General (I).**

A. Residential Facilities. A ~~physical examination~~ Physical Examination and history shall be completed by a Physician or other Authorized Healthcare Provider for Patients within thirty (30) calendar days prior to admission or ~~not later than two (2) business days after~~ of admission for ~~clients~~ Patients in 24 hour

~~facilities. The procedure describing the need for a physical examination in outpatient facilities shall be determined by the facility with documented consultation with a physician or other authorized healthcare provider. For NTP's, see Section 3208. Physical Examinations conducted by Physicians or other Authorized Healthcare Providers licensed in other states are permitted for new admissions under the condition that the Patient undergoes a second Physical Examination by a South Carolina licensed Physician or other Authorized Healthcare Provider within thirty (30) calendar days of admission to the Facility. The Physical Examination shall address:~~

~~**EXCEPTION:** If a client is admitted after 5:00 P.M. on Friday, a 24-hour facility has until close of business the next workday to obtain the admission physical examination.~~

~~1. As appropriate, the physical examination shall address the~~The appropriateness of level of services treatment placement, e.g., social detoxification, medical detoxification, Residential treatment, etc., and identification of special conditions including the presence of communicable diseases;

2. Identification of special conditions and/or care required;

~~23. In 24-hour facilities and NTP's, the physical examination shall include a~~A tuberculin skin test, as described in Section 14041702, unless there is a previously documented positive reaction;

~~—3. The physical examination shall be performed only by a physician or other authorized healthcare provider.~~

~~4. If a client~~Patient ~~or potential client~~Patient ~~has a communicable disease, the administrator~~Facility ~~shall seek advice from a~~follow the recommendations made by a physicianPhysician ~~or other authorized healthcare provider~~Authorized Healthcare Provider ~~in order to:~~

~~a. Ensure that the facility~~Facility ~~has the capability of providing adequate care and preventing the spread of that condition, and that the staff/ volunteer~~Staff and Volunteers ~~are adequately trained; or~~

~~b. Transfer the client~~Patient ~~to an appropriate facility~~Facility~~, if necessary; and~~

5. A substance use test. Following the test, the Physician or Authroized Healthcare Provider shall determine the frequency of subsequent testing based on the Patient's clinical presentation.

~~—B. A discharge summary, which includes a physical examination from a health care facility, shall be acceptable as the physical examination provided the summary includes the requirements of Sections 1001.A. 1001.A.3.~~

~~—C. Isolation Provisions. Clients with contagious pulmonary tuberculosis shall be separated from non-infected clients until declared non-contagious by a physician or other authorized healthcare provider. Should it be determined that the facility cannot care for the client to the degree that assures his/her health and safety and that of the other clients in the facility, the client shall be relocated to a facility that can meet his/her needs.~~

~~—D.B. In facilities for mothers with children, there shall be a report of a physical examination conducted not earlier than (30) days prior to the mother's admission or not later than (48) hours after admission for each child, attesting to health status and special care needs that may impact on the child, his/ her mother, and/or others within the facility. The exception indicated in Section 1001.A shall be applicable for obtaining a physical examination for the child should the mother be admitted after 5pm on Friday. In Facilities providing services for parents with children, there shall be a report of an examination for each child by a~~

Physician or other Authorized Healthcare Provider attesting to the health status and special care needs that may impact the child, his/ or her parent, and/or others within the Facility. The examination shall be conducted not earlier than thirty (30) calendar days prior to the parent's admission or no later than forty-eight (48) hours after admission.

C. Opioid Treatment Program.

1. Physical Examination. A Physical Examination conducted by the Opioid Treatment Program Physician or other Authorized Healthcare Provider shall be completed within seventy-two (72) hours prior to the first dose of Opioid Treatment Program Medication and shall address the following at a minimum: (I)

a. Evidence of communicable or Infectious disease;

b. Pulmonary, liver, renal, and cardiac abnormalities;

c. Neurological issues;

d. Vital signs;

e. Evidence of clinical signs of dependency; and

f. Examination of head, ears, eyes, nose, throat, thyroid, chest (including heart, lungs and breast), abdomen, extremities, and skin.

2. Medical Laboratory Analysis. A medical laboratory analysis shall be conducted within seven (7) calendar days of admission and shall include:

a. Serological test for Infectious disease;

b. Initial substance use testing for Controlled Substance profile;

c. Liver profile; and

d. If indicated, an electrocardiogram, chest x-ray, and/or a biological pregnancy test.

3. In the event the medical staff are unable to obtain an adequate blood draw for the medical laboratory analysis on the first attempt, the Facility shall attempt within the seven (7) days of admission. After three (3) documented attempts within the seven (7) days of admission, the Opioid Treatment Program Physician or other Authorized Healthcare Provider may waive the blood testing requirements. The Physician's decision shall be documented in the Patient's medical record. The Facility shall follow its policies and procedures related to infection control if the Physician waives the blood testing requirement.

ED. In the event that a ~~client~~Patient transfers from one ~~24-hour facility~~ Residential Facility to another (e.g., ~~medical detoxification a Residential treatment program~~), an additional admission ~~physical~~Physical Examination and/or tuberculin skin test shall not be necessary, provided the ~~physical~~Physical was conducted not earlier than twelve (12) months prior to the admission of the ~~client~~ Patient, and the ~~physical~~Physical meets all other requirements specified in Section ~~4001-A1100.A.1~~, unless the receiving ~~facility~~Facility has an indication that the health status of the ~~client~~Patient has changed significantly. ~~Two-step tuberculin skin tests remain a requirement of Residential treatment program facilities.~~<sup>[08/2017]</sup> In such

instances of transfer, issues of appropriateness of level of treatment placement shall be addressed in the ~~client~~Patient record.

## SECTION 1100

### ~~MEDICATION MANAGEMENT.~~

### SECTION 1200 – MEDICATION MANAGEMENT

#### ~~1101~~1201. General (I).

A. Medications, including Controlled Substances, medical supplies, and those items necessary for the rendering of first aid shall be properly managed in accordance with local, state, and federal law and regulations, which includes the securing, storing, and administering, dispensing, and delivering of medications, medical supplies, and biologicals, their disposal when discontinued or outdated, and their disposition at ~~discharge~~Discharge, death, or transfer of a ~~client~~Patient. All ~~facilities~~Facilities that manage ~~medication~~Medication of ~~clients~~Patients shall comply with this section.

B. Applicable reference materials, ~~e.g., Physicians' Desk Reference~~, published within the previous three (3) years, shall be available at the ~~facility~~Facility in order to provide ~~staff/ volunteers~~Staff and/or Volunteers with adequate information concerning ~~medications~~Medications.

#### ~~1102~~1202. Medication Orders (I).

A. Medication, including oxygen, shall be administered and delivered to ~~clients~~Patients only upon orders of ~~authorization~~ by a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider. Medications accompanying ~~clients~~Patients at admission, may be administered and/or delivered to ~~clients~~Patients, provided the ~~medication~~Medication is in the original container and the order/authorization is subsequently obtained as a part of the admission ~~physical~~Physical Examination. If there are concerns regarding whether or not such ~~medications~~Medications should be administered and/or delivered due to the condition or state of the ~~medication~~Medication, e.g., old, expired, makeshift labels, or the condition or state of health of the newly-admitted individual, ~~staff/ volunteers~~Staff and Volunteers shall consult with or make arrangements to have the ~~client~~Patient examined by a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider, or at the local hospital emergency room prior to administering or delivering any ~~medications~~Medications.

B. All orders (including verbal orders) shall be signed and dated by a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider within a time-period as designated by the ~~facility~~Facility, but no later than seventy-two (72) hours after the order is given.

C. In an Opioid Treatment Program, all orders shall be documented, signed, and dated by the Opioid Treatment Program Physician. The Opioid Treatment Program Physician shall determine the initial and subsequent dosage and schedule, and prescribe such dose and schedule to include changes by verbal or written order to the pharmacist and Licensed Nurse. However, the verbal order shall be documented, signed, and dated by the Opioid Treatment Program Physician within seventy-two (72) hours.

~~CD.~~ Orders for ~~controlled substances~~Controlled Substances shall be authenticated by the prescribing ~~physician~~Physician or designee.

~~DE.~~ Medications and medical supplies ordered for a specific ~~client~~Patient shall not be administered and/or delivered to any other ~~client~~Patient.

### **14031203. Administering Medication (I).**

~~— A. Medications, including oxygen, shall be administered to clients only by those appropriately licensed to administer medications, pursuant to the SC Code of Laws.~~

~~— B. Each medication dose administered/delivered or supervised shall be properly recorded by initialing on the client's medication record as the medication is administered. Doses of medication shall be administered by the same staff member/volunteer who prepared them for administration. Preparation of doses for more than one scheduled administration shall not be permitted, and such preparation shall occur no earlier than one hour prior to administering. The recording of medication administration shall include: the medication name, dosage, mode of administration, date, time, and the signature of the individual administering or supervising the taking of the medication. If the ordered dosage is to be given on a varying schedule, e.g., "take two tablets the first day and one tablet every other day by mouth with noon meal," the number of tablets shall also be recorded.~~

A. Doses of Medication shall be administered by the same Licensed Nurse who prepared them for administration. Preparation shall occur no earlier than one (1) hour prior to administering. Preparation of doses for more than one (1) scheduled administration shall not be permitted. Each Medication dose administered shall be recorded on the Patient's Medication administration record ("MAR") as it is administered. Should an ordered dose of Medication not be administered, an explanation as to the reason shall be recorded on the MAR. The recording of Medication administration shall include: the medication name, dosage, mode of administration, date, time, and the signature of the individual administering or supervising the taking of the Medication. Initials in lieu of signatures are acceptable provided such initials can be readily identified on the MAR. If the ordered dosage is to be given on a varying schedule, for example, "take two tablets the first day and one tablet every other day by mouth with noon meal," the number of tablets shall also be recorded.

B. When a Physician or other Authorized Healthcare Provider changes the dosage of a Medication, a new entry reflecting the change shall be documented in the Medication administration record ("MAR"). No dose shall be administered until the Patient's identity has been verified and the dosage compared with the currently ordered and documented dosage level. Ingestion shall be observed and verified by the person authorized to administer the Medication.

#### C. Opioid Treatment Program Only:

1. The Facility shall not administer a Patient's initial dose of Opioid Treatment Program Medication until the program Physician or other Authorized Healthcare Provider has determined that all admission criteria have been met, to include a completed Physical Examination by the program Physician or other Authorized Healthcare Provider and confirmation of current Medication regimen being taken by the applicant.

2. The initial dose of methadone shall not exceed thirty (30) milligrams and the initial total daily dose for the first day shall not exceed forty (40) milligrams unless the Opioid Treatment Program Physician or other Authorized Healthcare Provider justifies in the Patient record that forty (40) milligrams did not suppress the abstinence symptoms after three (3) hours of observation following the initial dose. There shall be written justification in the Patient record, signed and dated by the Opioid Treatment Program Physician or other Authorized Healthcare Provider, for doses in excess of one hundred (100) milligrams of methadone per day after the first day.

3. A Patient's scheduled dose may be temporarily delayed if necessary, e.g., to obtain a urine sample or for Counselor consultation. The dose shall not be withheld, however, for failure to comply with the

Opioid Treatment Program rules or procedures unless the decision is made to terminate the Patient's participation in the Opioid Treatment Program. A dose may be withheld only when the Opioid Treatment Program Physician or other Authorized Healthcare Provider determines that such action is medically indicated.

4. When the Opioid Treatment Program Physician prescribes Controlled Substances other than Opioid Treatment Program Medications, such prescriptions shall not be administered to any Patient unless the Opioid Treatment Program Physician or other Authorized Healthcare Provider first examines the Patient and assesses his or her potential for misuse of such Medications.

~~CD. Self-administering administration of medications~~ Medications is permitted shall be allowed only when indicated by the on the specific written orders of a physician Physician or other authorized healthcare provider, verified by direct contact with the client by a staff member/volunteer, and recorded on the medication record by that same staff member/volunteer. Verification and documentation shall occur at the same frequency as the medication is given. Facilities may elect not to permit self administration Authorized Healthcare Provider. An appropriate Staff member delivering the Medication shall document the delivery. Such documentation shall include the date, time, and the signature of the individual delivering the Medication.

~~**EXCEPTION:** Documentation of medication taken by clients, as described in Sections 1103.B and C, is not required for nonlegend medication for those who are physically and mentally capable of self-administering medications provided:~~

- ~~— 1. The medication does not require a prescription and is not specifically prescribed;~~
- ~~— 2. The client's physician or other authorized healthcare provider documents in the client's record that the client may, at the client's discretion, use and self-administer all nonprescription medications;~~
- ~~— 3. A current (within two year) statement, attesting to the conditions stated in Section 1103.C.2 above, is signed and dated by the physician or other authorized healthcare provider, and filed in the client's record;~~
- ~~— 4. The statement in Section 1103.C.3 above is specifically addressed during subsequent physical examinations and appropriately revised or restated in the report of that examination;~~
- ~~— 5. The condition is specifically addressed in the periodic review and update of the record.~~

~~DE. When clients~~ Patients who cannot self-administer Self-Administer medications Medications leave the facility Facility for an extended time, the proper amount of medications Medications, placed into a prescription vial or bottle, along with dosage, mode, date, and time of administration, shall be given to a responsible person who will be in charge of the client Patient during his/ or her absence from the facility Facility and properly documented in the medication Medication administration record. If there is no designated responsible party for the client Patient, then the attending physician Physician or other authorized Authorized healthcare Healthcare provider Provider shall be contacted for proper instructions.

F. The Medications prescribed for a Patient shall be protected from use by other Patients, visitors, and Staff and Volunteers. For those Patients who have been authorized by a Physician or other Authorized Healthcare Provider to Self-Administer Medications, such Medications (nitroglycerin, rescue inhalers, epinephrine auto-injectors) may be kept on the Patient's person, i.e., a pocketbook, pocket, or any other method that would enable the Patient to control the items.

#### **11041204. Pharmacy Services (I).**



A. Any pharmacy within the ~~facility~~Facility shall be provided by or under the direction of a licensed pharmacist in accordance with accepted professional principles and appropriate federal, state, and local laws and regulations.

B. Facilities ~~which that~~ maintain stocks of ~~legend drugs~~Medications and biologicals for ~~dispensing to clients~~Patient use within the Facility shall obtain and maintain ~~from the South Carolina Board of Pharmacy~~ a valid, current, ~~pharmacy permit~~non-dispensing drug outlet permit that is displayed in a conspicuous location in the Facility~~from the SC Board of Pharmacy~~.

C. Labeling of ~~medications~~Medications dispensed to ~~clients~~Patients shall be in compliance with local, state, and federal laws and regulations applicable to retail pharmacies.

#### **11051205. Medication Containers (I).**

A. All ~~medication containers~~ shall be labeled. ~~Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the pharmacy for re-labeling or disposal.~~ Medications for Patients shall be obtained from a permitted pharmacy or Authorized Healthcare Provider as allowed by law on an individual prescription basis. These Medications shall bear a label affixed to the container that reflects at least the following: name of pharmacy, name of Patient, name of the prescribing Physician or other Authorized Healthcare Provider, date and prescription number, directions for use, and the name and dosage unit of the Medication. The label shall be brought into accord with the directions of the Physician or other Authorized Healthcare Provider each time the prescription is refilled. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the pharmacy for re-labeling or disposal.

B. Medications for each ~~client~~Patient shall be kept in the original container(s) including unit dose systems ~~or blister pack systems~~; there shall be no transferring between containers or opening blister packs to remove ~~medications~~Medications for destruction or adding new ~~medications~~Medications for administration, ~~except under the direction of a pharmacist.~~ In addition, for those facilities~~Facilities~~ that utilize the ~~blister pack system~~, unit dose system or multi-dose system, an on-site review of the medication~~Medication~~ program by a pharmacist shall be required conducted on at least a quarterly basis to ensure the program has been properly implemented and maintained. For changes in dosage, the new packaging shall be available in the Facility no later than the next administration time subsequent to the order. This shall be documented and signed by the pharmacist.

C. Medications for ~~clients~~Patients shall be obtained from a permitted pharmacy or prescriber on an individual prescription basis. These ~~medications~~Medications shall bear a label affixed to the container ~~which that~~ reflects at least the following: name of pharmacy, name of ~~client~~Patient, name of the prescribing ~~physician~~Physician or dentist, date and prescription number, directions for use, and the name and dosage unit of the ~~medication~~Medication. ~~The label shall be brought into accord with the directions of the physician~~Physician each time the prescription is refilled.

D. ~~If~~When a ~~physician~~Physician or other legally authorized ~~healthcare provider~~Authorized Healthcare Provider changes the dosage of a ~~medication~~Medication, ~~a label, which~~such information shall be documented in the Medication administration record and a label that does not obscure the original label shall be attached to the container which indicates the new dosage, date, and prescriber's name. In lieu of this procedure, it is acceptable to attach a label to the container that states, "see Directions changed; refer to MAR and physicianPhysician or other authorized ~~healthcare provider~~Authorized Healthcare Provider orders for current administration instructions." ~~The new directions shall be communicated to the pharmacist on reorder of the drug. The new directions shall be communicated to the pharmacist on reorder of the drug.~~

#### **11061206. Medication Storage (I).**

~~A. Medications shall be properly~~may be stored and safeguarded to prevent access by authorized persons. ~~Expired or discounted medications shall not be stored with current medications. in a separate locked box within a refrigerator at or near the Medication storage area, either behind a locked door or the refrigerator shall be locked. Storage areas shall be locked, and of sufficient size for clean and orderly storage. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Refrigerators used for storage of medications shall maintain an appropriate temperature as identified on the manufacturer's label and as established by the US Pharmacopeia (36—46 degrees Fahrenheit), and as evidenced by thermometer placed inside. Medications requiring refrigeration shall be stored in a refrigerator at the temperature recommended by the manufacturer of medication. Medications may be stored in a separate locked box within a multi-use refrigerator at or near the medication storage area.~~

B. ~~Controlled substances~~Substances and ethyl alcohol; shall be stored in accordance with applicable state and federal laws. A record of the stock and distribution of all ~~controlled substances~~Controlled Substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

C. Medications shall be stored:

1. Separately from poisonous ~~Controlled substances~~Substances or body fluids;
2. In a manner which provides for separation between topical and oral ~~medications~~Medications, and which provides for separation of each individual ~~client's~~Patient's ~~medication~~Medication.

~~—D. Unless the facility has a permitted pharmacy, stocks of legend medications shall not be stored except those specifically prescribed for individual clients. Non-legend medications may be retained and labeled as stock in the facility for administration as ordered by a physician or other authorized healthcare provider. As an alternative for freestanding medical detoxification facilities, stocks of legend medications that address medical distress, withdrawal symptoms, and other medications necessary for clients to safely complete the detoxification process, and Tuberculin PPD serum, not specifically prescribed for individual clients may be retained and labeled as stock in the facility for administration without a pharmacy permit provided the following conditions are met:~~

- ~~—1. Each facility shall have a nondispensing drug outlet permit issued by the SC Board of Pharmacy;~~
- ~~—2. At least monthly a licensed nurse shall:~~
  - ~~——a. Review medication storage areas and emergency medication kits;~~
  - ~~——b. Review all medications in the facility for expiration dates and ensure the removal of discontinued or expired medications from use as indicated; and~~
  - ~~——c. Verify proper storage of medications and biologicals in the facility.~~
- ~~—3. Stocks of legend medication shall not include controlled drugs.~~

D. Stock Medications

1. Unless the Facility has a permitted pharmacy, stocks of Legend Medications shall not be stored except those specifically prescribed for individual Patients.

2. Non-legend Medications may be retained and labeled as stock in the Facility for administration as ordered by a Physician or other Authorized Healthcare Provider.

3. Stocks of naloxone may be stored for emergency overdose crises, with or without specific prescription for individual Patients.

4. If stock non-Patient specific Controlled Substances are to be used, a Controlled Substances registration from the Department's Bureau of Drug Control and a Controlled Substances registration from the federal Drug Enforcement Administration shall be obtained. The registrations shall be displayed in a conspicuous location within the Facility.

E. No ~~medications~~Medications may be left in a ~~client's~~Patient's room unless the ~~facility~~Facility provides an individual cabinet/compartment that is kept locked in the room of each ~~client~~Patient who has been authorized to ~~self-administer~~Self-Administer in writing by a ~~physician~~Physician, or other ~~authorized healthcare provider~~Authorized Healthcare Provider. In lieu of a locked cabinet or compartment, a room that can be locked and is licensed for a capacity of one (1) ~~client~~Patient is acceptable provided the ~~medications~~Medications are not accessible by unauthorized persons, the room is kept locked when the ~~client~~Patient is not in the room, the ~~medications~~Medications are not ~~controlled substances~~Controlled Substances, and all other requirements of this section are met.

F. The ~~medications~~Medications prescribed for a ~~client~~Patient shall be protected from use by other ~~clients~~Patients, visitors and ~~staff/volunteers~~Staff and Volunteers. For those ~~clients~~Patients who have been authorized by a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider to self-administer ~~medications~~Medications, such ~~medications~~Medications may be kept on the ~~client's~~Patient's person, i.e., a pocketbook, pocket, or any other method that would enable the ~~client~~Patient to control the items.

G. During nighttime hours in semi-private rooms, only ~~medications~~Medications that a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider has ordered in writing for emergency/immediate use, e.g., nitroglycerin ~~or~~, rescue inhalers, ~~or~~ EpiPens epinephrine auto-injectors may be kept unlocked in or upon a cabinet or bedside table, and only when the ~~client~~Patient to whom that ~~medication~~Medication belongs is present in the ~~client~~Patient room.

#### **11071207. Disposition of Medications (I).**

A. The Facility shall release Medications ~~shall be released~~ to the ~~client~~Patient upon ~~discharge~~Discharge, unless specifically prohibited by the ordering ~~physician~~Physician or ~~authorized healthcare provider~~Authorized Healthcare Provider.

B. ~~Client's~~Patient's ~~medications~~Medications shall be destroyed by the ~~facility~~Facility ~~administrator~~Administrator or his ~~or~~ her designee or returned to dispensing pharmacy when:

1. Medication has deteriorated or exceeded its safe shelf-life; and;

2. Unused portions remain due to death, ~~discharge~~Discharge, or discontinuance of the ~~medications~~Medications. Medications that have been discontinued by order may be stored for a period not to exceed thirty (30) calendar days provided they are stored separately from current ~~medications~~Medications.

C. The destruction of ~~medication~~Medication shall occur within five (5) days of the above-mentioned circumstances, be witnessed by the ~~administrator~~Administrator or his/ or her designee, and the mode of destruction indicated.

D. The destruction of controlled ~~substances~~medicationsMedications shall be accomplished only by the ~~administrator~~Administrator or his/ or her designee on-site and witnessed by a ~~licensed nurse~~Licensed Nurse or pharmacist, or by returning them to the dispensing pharmacy and obtaining a receipt from the pharmacy.

#### **1208. Opioid Treatment Program Take-home Medication (II).**

A. Opioid Treatment Program Medication, including guest and take-home doses, shall be administered to Patients in single doses. Take-home bottles shall be labeled in accordance with federal and state law and regulations and shall contain necessary cautionary statements; caps shall be childproof.

B. Take-home Opioid Treatment Program Medication may be given to Patients who demonstrate a need for a more flexible schedule in order to enhance and continue the rehabilitative process. However, since Opioid Treatment Program Medication is an opioid subject to misuse if not managed properly, precautions shall be taken to prevent its potential misuse. The Opioid Treatment Program Physician shall ensure that take-home Medication is given to those Patients who meet the following criteria for eligibility:

1. Adherence to Opioid Treatment Program rules, regulations, and policies;
2. Length of time in the Opioid Treatment Program and level of maintenance treatment;
3. Presence of Opioid Treatment Program Medication in substance use testing;
4. Potential complications from concurrent health problems;
5. Lengthy travel distance to the Facility; and
6. Progress in maintaining a stable lifestyle as evidenced by:
  - a. Absence of misuse of opioids and non-opioids;
  - b. Absence of alcohol misuse, or determination that the using alcohol and is in treatment for the alcohol misuse problem;
  - c. Regularity of attendance at the Opioid Treatment Program, to include required counseling sessions;
  - d. Absence of serious behavior problems, including loitering at the Opioid Treatment Program;
  - e. Absence of known recent criminal activity;
  - f. Employment, school attendance, or other appropriate activity; and
  - g. Assurance that take-home Medication can be securely transported and stored by the Patient for his or her use only.

C. The decision to provide take-home Medication to Opioid Treatment Program Patients and the amount provided shall be based upon and determined by the reasonable clinical judgment of the Opioid Treatment Program Physician and appropriately documented and recorded in the Patient's file prior to the initiation of the take-home dose. The Opioid Treatment Program Physician shall document compliance by the Patient with all of the aforementioned requirements prior to providing the first take-home dose. (I)

D. The Patient's take-home status shall be reviewed and documented at least on a quarterly basis by the primary Counselor.

E. If a Patient, due to special circumstances, such as illness, personal or family crisis, travel, or other hardship, is unable to conform to the applicable treatment schedule, he or she may be permitted to receive up to a two (2)-week supply of Opioid Treatment Program Medication, based on the clinical judgment of the Opioid Treatment Program Physician. The justification for permitting the adjusted schedule shall be recorded in the Patient's record by the Opioid Treatment Program Physician.

F. One-time or temporary (usually not to exceed three (3) days) take-home Medication shall be approved by the Facility for family or medical emergencies or other exceptional circumstances.

G. A Patient transferring from another Opioid Treatment Program or readmitted after having left the Opioid Treatment Program voluntarily and who has complied with Facility rules and program policies and procedures may be granted an initial take-home schedule that is no greater than that allowed at the time of transfer or voluntary Discharge provided all criteria other than length of treatment are met.

H. A Patient discharged from another Opioid Treatment Program shall only be initially granted take-home privileges from the new admitting Opioid Treatment Program provided the requirements of Section 1209 are met.

I. Take-home Medication shall be labeled with the name of the Opioid Treatment Program, address, telephone number, and packaged in conformance with state and federal regulations.

J. A diversion control plan shall be established to assure quality care while preventing the diversion of Opioid Treatment Program Medication from treatment to illicit use. The plan shall include:

1. Clinical and administrative continuous monitoring;
2. Problem identification, correction and prevention;
3. Accountability to the Patient and community; and
4. Opioid Treatment Program Medication usage and amount accountability.

### **1209. Opioid Treatment Program Guest-Dosing (II).**

A. When a Patient is separated from his or her Opioid Treatment Program for an extended period, and the Patient is in the vicinity of another Licensed Opioid Treatment Program, guest-dosing may occur provided there is: (I)

1. Authorization in writing from the sending Opioid Treatment Program Physician or other Authorized Healthcare Provider; and

2. Information from the sending Opioid Treatment Program to include at least the following: Patient name, identifying information, means of identity verification, dates of guest-dosing, amount of each day's dose, number of take-home doses (if any), urinalysis history, and any other information requested by the authorizing treatment Opioid Treatment Program.

B. Records of guest-dosing shall be maintained at the Opioid Treatment Program providing the guest-dosing.

C. Guest-dose status for a Patient shall not exceed twenty-eight (28) days unless there are special circumstances, and an extension of time is agreed upon by the two (2) Opioid Treatment Programs involved.

D. A Facility desiring to administer guest dosing for Patients from neighboring states in the event of a natural disaster or emergency shall:

1. Request that the Department concur that an emergency situation exists by contacting the Department;

2. Administer the guest-dosing only upon written orders from the Facility's Opioid Treatment Program physician; and

3. Maintain documentation of the physician's rationale for the dosing protocol and information utilized to make the decision.

#### **1210. Security of Medications (I).**

A. The areas where Opioid Treatment Program stock Medications are maintained or administered shall be secured. Access to Controlled Substances, which include Opioid Treatment Program Medications, shall be limited to persons licensed or registered to order, administer, or dispense those Medications.

B. Immediately after administering, the remaining contents of the containers shall be purged to prevent the accumulation of residual Opioid Treatment Program Medications. The Opioid Treatment Program shall ensure that take-home Medications bottles are returned to the Opioid Treatment Program. All used containers, as well as take-home bottles given to Patients, shall be made inaccessible to unauthorized individuals. Used containers shall be disposed of by the Opioid Treatment Program.

#### **SECTION 1200**

#### **MEAL SERVICE.**

#### **SECTION 1300 – MEAL SERVICE**

#### **12011301. General (II).**

A. All ~~facilities~~Facilities that prepare food on-site shall be approved by the Department, and shall be regulated, inspected, and graded pursuant to R.61-25, Retail Food Establishments. Facilities preparing food on-site, licensed for ~~sixteen~~ (16) beds or more subsequent to the promulgation of ~~these~~this regulations shall have commercial kitchens. Existing ~~facilities~~Facilities with ~~sixteen~~ (16) licensed beds or more may continue to operate with equipment currently in use; however, only commercial kitchen equipment shall be used when replacements are necessary. Those ~~facilities~~Facilities with ~~fifteen~~ (15) beds or less shall be regulated pursuant to R.61-25 with certain exceptions in regard to equipment (may utilize domestic kitchen equipment).

B. When meals are catered to a ~~facility~~Facility, such meals shall be obtained from a food service establishment permitted by the Department, pursuant to R.61-25 and there shall be a written executed contract with the food service establishment on file in the Facility.

C. All food to be served to Patients shall be transported, received, stored, and handled in accordance with R.61-25. Washing and sanitation of all food contact and non-food contact surfaces, equipment, and utensils shall meet the standards required by R.61-25. A handwash lavatory shall be provided in the food service area equipped with liquid soap and a hand drying provision. Hand sanitizers shall not be used in lieu of liquid soap.

~~CD.~~ If food is prepared at a central kitchen and delivered to separate ~~facilities~~Facilities or separate buildings and/or floors of the same ~~facility~~Facility, provisions shall be made and approved by the Department for proper maintenance of food temperatures and a sanitary mode of transportation.

~~DE.~~ Food shall be prepared by methods that conserve the nutritive value, flavor, and appearance. The food shall be palatable, properly prepared, and sufficient in quantity and quality to meet the daily nutritional needs of the ~~patients~~Patients in accordance with written dietary policies and procedures. Efforts shall be made to accommodate the religious, cultural, and ethnic preferences of each individual ~~patient~~Patient and consider variations of eating habits, unless the orders of a ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider contraindicate.

## **12021302. Food and Food Storage (II).**

~~—A. The storage, preparation, serving, transportation of food, and the sources from which food is obtained shall be in accordance with R.61-25. (I)~~

~~—B. The use of home canned foods is prohibited. (I)~~

~~—C. All food items shall be stored at a minimum of six inches above the floor on clean surfaces, and in such a manner as to be protected from splash and other contamination.~~

~~—D. At least a one week supply of staple foods and a two day supply of perishable foods shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu and special or therapeutic diets.~~

~~—E. Food stored in the refrigerator/freezer shall be covered, labeled, and dated. Prepared food shall not be stored in the refrigerator for more than 72 hours~~Residential Facilities shall maintain at least a one (1)-week supply of staple foods and a two (2)-day supply of perishable foods on the premises. Supplies shall be appropriate to meet the requirements of the menu and special diets.

## **1203. Food Equipment and Utensils (II).**

~~—The equipment and utensils utilized, and the cleaning, sanitizing, and storage of such shall be in accordance with R.61-25.~~

**EXCEPTION:** ~~In facilities with five licensed beds or less, in lieu of a three compartment sink, a domestic dishwasher may be used to wash equipment/utensils provided the facility has at least a two compartment sink that will be used to sanitize and adequately air dry equipment/utensils. In facilities with 10 beds or less and licensed prior to May 24, 1991, as a community Residential care facility, in which a two compartment sink serves to wash kitchen equipment/utensils, an additional container of adequate length, width, and depth may be provided to completely immerse all equipment/utensils for final sanitation. Domestic dishwashers~~

may be utilized in facilities licensed with 10 beds or less prior to May 24, 1991, provided they are approved by the Department.

### **12041303. Meals and Services.**

~~A. All facilities shall provide dietary services to meet the daily nutritional needs of the clients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (I)~~

~~B. The dining area shall provide a congenial and relaxed environment. Table service shall be planned in an attractive and colorful manner for each meal and shall include full place setting with napkins, tablecloths~~

~~CA. A~~Residential Facilities shall serve a minimum of three (3) nutritionally-adequate meals, in accordance with Section 1204.A above, in each twenty-four (24)-hour period, shall be provided for each client unless otherwise directed by the client's~~Patient's~~physicianPhysician or other authorized healthcare providerAuthorized Healthcare Provider. Not more than fourteen (14) hours shall elapse between the serving of the evening meal and breakfast the following day. (II)

~~D. Special attention shall be given to preparation and prompt serving in order to maintain correct food temperatures for serving at the table or client room (tray service). (II)~~

~~E. The same foods shall not be repetitively served during each seven-day period except to honor specific, individual client requests.~~

~~FB.~~ Specific times for serving meals shall be established, documented on a posted menu, and followed.

~~GC.~~ Suitable food and snacks shall be available and offered between meals at no additional cost to the ~~clients~~Patients. (II)

### **12051304 . Meal Service WorkersPersonnel for Residential Facilities (II).**

A. The health, disease control, and cleanliness of all those engaged in food preparation and serving shall be in accordance with R.61-25.

B. Dietary services shall be organized with established lines of accountability and clearly defined job assignments for those engaged in food preparation and serving. There shall be trained ~~staff/volunteers~~Staff and/or Volunteers to supervise the preparation and serving of the proper diet to the ~~clients~~Patients including having sufficient knowledge of food values in order to make appropriate substitutions when necessary. ~~Clients~~Patients may engage in food preparation in accordance with ~~facility~~Facility guidelines; however, trained ~~staff/volunteers~~Staff and/or Volunteers shall supervise.

~~C. Sufficient staff/volunteers shall be available to serve food and to provide individual attention and assistance, as needed.~~

~~D. Approved hair restraints (covering all loose hair) shall be worn by all individuals engaged in the preparation and service of foods.~~

### **1206. Diets (II).**

A. If the facility accepts or retains clients in need of medically prescribed special diets, the menus for such diets shall be planned by a professionally qualified dietitian or shall be reviewed and approved by a



~~physician or other authorized healthcare provider. The facility shall provide supervision of the preparation and serving of any special diet, e.g., low sodium, low fat, 1200 calorie, diabetic diet. (I)~~

~~—B. If special diets are required, the necessary equipment for those diets shall be available and utilized.~~

~~—C. A diet manual published within the previous five years shall be available and shall address at minimum:~~

~~1. Food sources and food quality;~~

~~2. Food protection storage, preparation and service;~~

~~3. Food worker health and cleanliness;~~

~~4. Recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;~~

~~5. General menu planning;~~

~~6. Menu planning appropriate to special needs, e.g., diabetic, low salt, low cholesterol.~~

#### **12071305. Menus.**

A. Menus shall be planned and written at a minimum of one (1) week in advance and dated as served. The current week's menu, including routine and special diets and any substitutions or changes made, shall be readily available or posted in one (1) or more conspicuous places in a public area. All substitutions made on the master menu shall be recorded in writing.

B. If the Facility accepts Patients in need of medically-prescribed special diets, the menus for such diets shall be planned by a professionally qualified Dietitian, or shall be reviewed and approved by a Physician or other Authorized Healthcare Provider. The Facility shall maintain documentation that each of these menus has been planned by a Dietitian, a Physician, or other Authorized Healthcare Provider. At a minimum, documentation for each Patient's special diet menu shall include the signature of the Dietitian, the Physician, or other Authorized Healthcare Provider, his or her title, and the date he or she signed the menu.

BC. Records of menus as served shall be maintained for at least thirty (30) days.

#### **1208. Ice and Drinking Water (II).**

~~A. Ice from a water system that is in accordance with R.61-58, shall be available and precautions taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside of the ice container.~~

~~B. Potable drinking water shall be available and accessible in adequate amounts at all times.~~

~~C. The usage of common cups shall be prohibited.~~

~~D. Ice delivered to client areas in bulk shall be in nonporous, easily cleaned, covered containers.~~

#### **1209. Equipment (II).**

~~A. Liquid or powder soap dispensers and sanitary towels shall be available at each food service handwash lavatory.~~

~~B. In facilities of 16 or more licensed beds, separate handwash sinks shall be provided convenient to serving, food preparation, and dishwashing areas.~~

~~C. All walk-in refrigerators and freezers shall be equipped with opening devices which will permit opening of the door from the inside at all times. (I)~~

#### **~~1210. Refuse Storage and Disposal (II).~~**

~~Refuse storage and disposal shall be in accordance with R.61-25.~~

### **~~SECTION 1300~~**

#### **~~MAINTENANCE.~~**

#### **~~1301. General (II).~~**

~~—A. The structure, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed.~~

~~—B. Noise, dust, and other related client intrusions shall be minimized when construction/renovation activities are underway.~~

~~—C. If applicable, a procedure shall be developed for calibrating medication dispensing instruments consistent with manufacturer's recommendations to ensure accurate dosing and tracking.~~

#### **~~1302. Preventive Maintenance of Emergency Equipment and Supplies (II)~~**

~~—Each facility shall develop and implement a written preventive maintenance program for all emergency equipment and supplies including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient grounding systems, and medical gas systems. Facilities shall check and/or test this equipment at intervals ensuring proper operation and state of good repair. After repairs and/or alterations to any equipment or system, facility shall thoroughly test the equipment or system for proper operation before returning it to service. The facility shall maintain records for each piece of emergency equipment to indicate its history of testing and maintenance.~~

### **~~SECTION 1400~~**

#### **~~INFECTION CONTROL AND ENVIRONMENT.~~**

#### **~~1401. Staff Practices (I).~~**

~~Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures/practices shall be in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; the Centers for Disease Control and Prevention (CDC); the Department's Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings, and R.61-105; and other applicable federal, state, and local laws and regulations.~~

#### **1402. Tuberculosis Risk Assessment (I)**

~~— A. All facilities shall conduct an annual tuberculosis risk assessment in accordance with CDC guidelines (See Section 102.B.6) to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.~~

~~— B. The risk classification, i.e., low risk, medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff and Patients and the frequency of screening. A risk classification shall be determined for the entire facility. In certain settings, e.g., healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, patient population, job type, or location within the setting may have separate risk classifications.~~

#### **1403. Staff Tuberculosis Screening (I)**

~~— A. Tuberculosis Status. Prior to date of hire or initial Patient contact, the tuberculosis status of direct care staff shall be determined in the following manner in accordance with the applicable risk classification:~~

~~— B. Low Risk:~~

~~— 1. Baseline two step Tuberculin Skin Test (TST) or a single Blood Assay for Mycobacterium tuberculosis (BAMT): All staff (within three (3) months prior to contact with Patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.~~

~~— 2. Periodic TST or BAMT is not required.~~

~~— 3. Post exposure TST or a BAMT for staff upon unprotected exposure to M. tuberculosis: Perform a contact investigation when unprotected exposure is identified.~~

~~— Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to M. tuberculosis ended.~~

~~— C. Medium Risk:~~

~~— 1. Baseline two step TST or a single BAMT: All staff (within three (3) months prior to contact with Patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.~~

~~— 2. Periodic testing (with TST or BAMT): Annually, of all staff who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff about symptoms of TB disease (including the staff and/or direct care volunteers responses), documenting the questioning of the staff about the presence of symptoms of TB disease, and instructing the staff to report any such symptoms immediately to the administrator or director of nursing. Treatment for latent TB infection (LTBI) shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.~~

~~— 3. Post exposure TST or a BAMT for staff upon unprotected exposure to M. tuberculosis: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to M. tuberculosis ended.~~

~~— D. Baseline Positive or Newly Positive Test Result:~~

~~— 1. Staff with a baseline positive or newly positive test result for M. tuberculosis infection (i.e., TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, e.g., cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). These staff members will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (i.e., the Department's TB Control program).~~

~~— 2. Staff who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician, and permitted to return to work only with approval by the Department TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician.~~

#### **1404. Client Tuberculosis Screening (I)**

~~— A. Client Tuberculosis Screening Procedures:~~

~~— 1. Clients in 24 hour facilities shall have evidence of a two-step tuberculin skin test. If the client in a 24 hour facility has a documented negative tuberculin skin test (at least single step) within the previous twelve (12) months, the client shall have only one (1) tuberculin skin test to establish a baseline status.~~

~~— 2. Clients in 24 hour facilities shall have at least the first step within thirty (30) days prior to admission and no later than forty eight (48) hours after admission pursuant to the physical examination as specified in Section 1001.~~

~~— 3. Clients in the narcotic treatment program shall have a single step test within one (1) month prior to admission and no later than ten (10) days after admission as specified in Section 2808.~~

~~— B. Clients with Positive Tuberculosis Results:~~

~~— 1. Clients with a baseline positive or newly positive test result for M. tuberculosis infection (i.e., TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, e.g., cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Routine repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician. These clients will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (i.e., the Department's TB Control program).~~

~~— 2. Clients who are known or suspected to have TB disease shall be transferred from the facility if the facility does not have an Airborne Infection Isolation room (See Section 101.G), required to undergo evaluation by a physician, and permitted to return to the facility only with approval by the Department's TB Control program.~~

#### **1405. Housekeeping (II)**

~~— The facility and its grounds shall be neat, clean, and free of safety impediments, vermin, and offensive odors.~~

~~— A. Interior housekeeping shall at a minimum include:~~

~~—— 1. Cleaning each specific area of the facility;~~

~~—— 2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area, appropriate to the area and the equipment's purpose or use.~~

~~—— 3. Safe storage of harmful chemicals (as indicated on the product label), cleaning materials and supplies in well lighted closets/rooms, inaccessible to clients. In 24 hour facilities only, when all clients have been authorized permission by a physician, authorized healthcare provider, or certified/licensed counselor to handle cleaning products, and housekeeping chores are part of the therapeutic program, cleaning agents may then be stored in an unsecured fashion.~~

~~— B. Exterior housekeeping shall at a minimum include:~~

~~—— 1. General cleaning of all exterior areas, e.g., porches and ramps, and removal of safety impediments such as water, snow, and ice;~~

~~—— 2. Keeping facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin;~~

#### **1406. Infectious Waste (I)**

~~— Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with the Department's SC Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings, R.61-105, and OSHA Bloodborne Pathogens Standard.~~

#### **1407. Pets (II)**

~~— A. Healthy animals that are free of fleas, ticks, and intestinal parasites, and have been examined by a veterinarian prior to entering the facility, have received required inoculations, if applicable, and that present no apparent threat to the health, safety, and well-being of the clients, shall be permitted in the facility, provided they are sufficiently fed, and cared for, and that the pets and their housing/food containers are kept clean.~~

~~— B. Pets shall not be allowed near clients who have allergic sensitivities to pets, or for other reasons such as clients who do not wish to have pets near them.~~

~~— C. Pets shall not be allowed in the kitchen area. Pets will be permitted in client dining/activities areas only during times when food is not being served. If the dining/activities area is adjacent to a food preparation or storage area, those areas shall be effectively separated by walls and closed doors while pets are present.~~

#### **1408. Clean/Soiled Linen and Clothing (II)**

~~— A. Clean Linen/Clothing. A supply of clean, sanitary linen/clothing shall be available at all times. Clean linen/clothing shall be stored and transported in an enclosed/covered sanitary manner. Linen/Clothing storage rooms shall be used only for the storage of linen/clothing. Clean linen/clothing shall be separated from storage of other purposes. Enclosing/Covering may be accomplished by utilizing materials such as cloth, plastic, or canvas cover, in order to prevent the contamination of clean linen/clothing by dust or other airborne particles or organisms.~~

~~— B. Soiled Linen/Clothing.~~

~~— 1. Soiled linen/clothing shall neither be sorted nor rinsed outside of the laundry service area.~~

~~— 2. Provisions shall be made for collecting, transporting, and storing soiled linen/clothing.~~

~~— 3. Soiled linen/clothing shall be kept in enclosed/covered containers.~~

~~— 4. Laundry operations shall not be conducted in client rooms, dining rooms, or in locations where food is prepared, served, or stored. Freezers/refrigerators may be stored in laundry areas, provided sanitary conditions are maintained.~~

## SECTION 1500

### EMERGENCY PROCEDURES/DISASTER PREPAREDNESS.

#### SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS

##### **1501. General (II).**

~~— With the exception of outpatient facilities and NTP's, at the time of admission, a plan for routine and emergency medical care shall be written into the client record. This shall include the name of physician or other authorized healthcare provider, and provisions for emergency medical care, to include plan for obtaining medications. In social detoxification facilities, there shall be a transfer agreement with local providers for emergency medical and psychiatric services as needed.~~

##### **15021401. Disaster Preparedness (II).**

A. All facilitiesResidential Facilities shall develop a suitableshall develop, by contact and consultation with their county emergency preparedness agency, a written plan for actions to be taken in the event of a disaster and implement the written plan for actions at the time of need. All 24-hour facilities shall develop this plan in coordination with their county emergency preparedness agency. Prior to initial licensing of a facilityFacility by the Department, the completed plan shall be submitted to the Department for review. Additionally, in instances when there are applications for increases in licensed bed capacity, the emergency/disaster plan shall be updated appropriately to reflect the proposed new total bed capacity. At the time of each License renewal, a completed form prescribed and furnished by the Department addressing specific components of the plan shall be included with each application submitted to the Department. All staff/volunteersStaff and Volunteers shall be made familiar with this plan and instructed as to any required actions. A copy of the plan shall be available for Inspection by the Patient and/or responsible party and the Department upon request. The plan shall be reviewed and updated Annually, and as appropriate. The Facility shall conduct and document a rehearsal of the emergency and disaster evacuation plan at least Annually and shall not require Patient participation.

B. The disaster plan for 24-hour facilitiesResidential Facilities shall include, but not be limited to:

1. A sheltering plan to include:
    - a. The licensed bed capacity and average occupancy rate;
    - b. Name, address, and phone number of the sheltering facility(ies) to which the ~~clients~~Patients will be relocated during a disaster; and
    - c. A letter of agreement signed by an authorized representative of each sheltering facility ~~which that~~ shall include: the number of relocated ~~clients~~Patients that can be accommodated; sleeping, feeding, and medication plans for the relocated ~~clients~~Patients; and provisions for accommodating relocated staff. The letter shall be updated annually with the sheltering facility and whenever significant changes occur. For those facilities located in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown counties, at least one (1) sheltering facility must be located in a county other than these counties.
  2. A transportation plan to include agreements with entities for relocating ~~clients~~Patients ~~which that~~ addresses:
    - a. The number and type of vehicles required;
    - b. How and when the vehicles are to be obtained;
    - c. Who (by name or organization) will provide drivers;
    - d. Procedures for providing appropriate medical support during relocation;
    - e. The estimated time to accomplish the relocation; and
    - f. The primary and secondary routes to be taken to the sheltering facility.
  3. A staffing plan for the relocated ~~clients~~Patients to include:
    - a. How care will be provided to the relocated ~~clients~~Patients including the number and type of ~~staff~~Staff;
    - b. Plans for relocating ~~staff~~Staff or assuring transportation to the sheltering facility; and
    - c. Co-signed statement by an authorized representative of the sheltering facility if staffing will be provided by the sheltering facility.
  4. A written, signed, and dated statement from the county emergency preparedness agency verifying the Facility's plan was developed and reviewed through contact and consultation with the county emergency preparedness agency.
- C. During any emergent event, the Facility shall provide data, Facility and evacuation status, and other requested information as determined by the Department, and at a frequency as determined by the Department.
- D. Evacuation is a temporary measure in order to evacuate Patients from potentially hazardous and/or harmful circumstances and shall not exceed seven (7) calendar days. In the event evacuated Patients are

unable to return to the Facility within seven (7) days due to damage to the Facility or its components, the lack of electricity and/or water, or other similar reasons, the Facility shall endeavor to assess each Patient's current condition and identify each Patient's current needs and preferences. Based on the resources available, the Facility shall implement each Patient's Discharge plan. For Patients needing assistance or support following Discharge, the Facility shall coordinate the transfer of the Patients to their responsible parties or to appropriately licensed Facilities capable of meeting the Patients' needs. Prior to the seventh (7th) day, if the Facility determines an extension of time is needed, the Facility may request approval from the Department.

~~C. A plan for the evacuation of clients staff and visitors, in case of fire or other emergency, shall be posted in conspicuous public areas throughout the facility and copy of the plan shall be provided to each client upon admission.~~

#### **1402. Licensed Capacity During an Emergency (II).**

A. In the event that the Facility temporarily provides shelter for evacuees who have been displaced due to a disaster, then for the duration of that emergency, provided the health, safety, and well-being of any Patient is not compromised, it is permissible to temporarily exceed the licensed capacity for the Facility in order to accommodate these individuals.

B. A Facility desiring to temporarily admit Patients in excess of its licensed bed capacity due to an emergency shall:

1. Request that the Department concur that an emergency situation exists by contacting the Department;

2. Determine the maximum number of Patients to be temporarily admitted;

3. Establish an anticipated date for Discharge of the temporary Patients;

4. Outline how and where the temporary Patients will be housed; and

5. Contact the county emergency preparedness agency to advise them of additional Patients.

B. The Facility shall not require the Patients temporarily admitted during the emergency situation to undergo tuberculin screening or submit to an admission history and physical examination.

C. The Facility shall notify the Department when the Patient census has returned to, or moves below, normal bed capacity by Discharge or transfer to licensed beds.

D. If the event occurs after normal business hours, the Facility shall contact the Department promptly during the next business day.

E. The Facility shall resolve in advance all other issues related to the temporary Patients (for example, Staff, Physician orders, additional food, and handling of Medications) by memorandum of agreements, internal policies and procedures, and emergency planning documents

#### **15031403. Emergency Call Numbers (II).**

—Emergency call data shall be posted in a conspicuous place and shall include at least the telephone numbers of fire and police departments, an ambulance service, and the poison control center. Other



emergency call information shall be available, to include the names, addresses, and telephone numbers of the ~~staff~~Staff to be notified in case of emergency, and the ~~physician~~Physician or other ~~authorized healthcare provider~~Authorized Healthcare Provider on-call.

#### **~~1504~~1404. Continuity of Essential Services (II).**

—There shall be a written plan to be implemented to assure the continuation of essential ~~client~~Patient supportive services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the work force resulting from inclement weather or other causes.

### **SECTION 1600**

#### **~~FIRE PREVENTION.~~**

#### **SECTION 1500 – FIRE PREVENTION**

#### **~~1601~~1501. Arrangements for Fire Department Response (I).**

A. Each ~~facility~~Facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire.

B. Facilities located outside of a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. A copy of the agreement shall be kept on file in the ~~facility~~Facility and a copy shall be forwarded to the Department. If the agreement is changed, a copy shall be forwarded to the Department.

#### **~~1602~~1502. Fire Response Training (I).**

A. Each ~~staff member/volunteer~~Staff member and Volunteer shall receive training within ~~one week of hiring, and at a frequency determined by~~twenty-four (24) hours of his or her first day of employment in the ~~facility~~Facility, ~~but~~and at least ~~annually~~Annually thereafter, addressing at a minimum, the following:

A1. ~~Fire~~The Facility fire plan to ~~include~~including evacuation routes and procedures, ~~and the training of staff;~~

B2. Reporting a fire;

C3. Use of the fire alarm system, if applicable;

D4. Location and use of fire-fighting equipment;

E5. Methods of fire containment; and

F6. Specific responsibilities, tasks, or duties of each individual.

B. Documentation of the fire response training shall be signed and dated by both the individual providing the training and the individual receiving the training, and maintained in the individual's Staff record.

#### **~~1603~~1503. Fire Drills (I).**

A. A plan for the evacuation of Patients, Staff members, and visitors, to include evacuation routes and procedures, in case of fire or other emergencies, shall be established and posted in conspicuous public areas throughout the Facility.

AB. ~~Clients~~Patients shall be made familiar with the fire plan and evacuation plan upon admission. The Facility shall maintain documentation of the review of the fire plan and evacuation plan with the Patient in the Patient's record.

~~B. An unannounced fire drill shall be conducted at least quarterly for all shifts. Each staff member/volunteer shall participate in a fire drill at least once each year. Records of drills shall be maintained at the facility, indicating the date, time, shift, description, and evaluation of the drill, and the names of staff/volunteers and number of clients directly involved in responding to the drill.~~

C. All Patients capable of assisting in their own evacuation shall be trained in the proper actions to take in the event of a fire.

D. For Residential Facilities only:

1. Unless otherwise mandated by statute or regulation, an unannounced fire drill shall be conducted at least quarterly for all shifts. Each Staff member and Volunteer shall participate in a fire drill at least once each year. Records of drills shall be maintained at the Facility, indicating the date, time, shift, description, and evaluation of the drill, and the names of Staff and Volunteers and number of Patients directly involved in responding to the drill.

2. All Patients at the time of the fire drill shall participate in the drill. In instances when a Patient refuses to participate in a drill, efforts shall be made to encourage participation, e.g., counseling, implementation of incentives rewarding patients for participation, specific Staff-to-Patient and Volunteer-to-Patient assignments to promote Patient participation. Continued refusal may necessitate implementation of the Discharge planning process to place the Patient in a setting more appropriate to their needs and abilities.

## SECTION 1600 – MAINTENANCE

### **1601. General (II).**

A. The Facility shall keep all equipment and building components (for example, doors, windows, lighting fixtures, plumbing fixtures) in good repair and operating condition. The Facility shall document preventive maintenance. The Facility shall comply with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility. (II)

B. If applicable, a documented and implemented procedure shall be developed for calibrating Medication-dispensing instruments consistent with manufacturer's recommendations to ensure accurate dosing and tracking.

### **1602. Preventive Maintenance of Emergency Equipment and Supplies (II).**

Each Facility shall develop and implement a written preventive maintenance program for all fire alarm, electrical, mechanical, plumbing, fire protection systems and for all equipment and supplies including, but not limited to, all Patient monitoring equipment, isolated electrical systems, conductive flooring, Patient grounding systems, and medical gas systems. Facilities shall check and/or test this equipment at intervals ensuring proper operation and state of good repair. After repairs and/or alterations to any equipment or system, the Facility shall thoroughly test the equipment or system for proper operation before returning it

to service. The Facility shall maintain records for each piece of emergency equipment to indicate its history of testing and maintenance.

## SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT

### **1701. Staff Practices.**

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for proper disposal of toxic and hazardous substances. These preventive measures and/or practices shall be in compliance with applicable guidelines of Bloodborne Pathogens Standard of the Occupational Safety and Health Act of 1970; the Centers for Disease Control and Prevention and R.61-105, Infectious Waste Management; and other applicable federal, state, and local laws and regulations.

### **1702. Tuberculosis Risk Assessment and Screening (I).**

A. Tuberculosis Testing. The Facility may utilize either Tuberculin skin testing or Blood Assay for Mycobacterium tuberculosis (“BAMT”) for detecting Mycobacterium tuberculosis infection:

1. Tuberculin skin testing. A small dose (0.1 mil) of purified protein derivative (PPD) tuberculin is injected just beneath the surface of the skin (by the intradermal Mantoux method), and the area is examined for induration (hard, dense, raised area at the site of the TST administration) forty-eight to seventy-two (48 to 72) hours after the injection (but positive reactions can still be measurable up to a week after administering the TST). The size of the indurated area is measured with a millimeter ruler and the reading is recorded in millimeters, including zero (0) millimeters to represent no induration. Redness and/or erythema is insignificant and is not measured or recorded. Authorized Healthcare Providers are permitted to perform tuberculin skin testing and symptom screening.

2. Blood Assay for Mycobacterium tuberculosis (“BAMT”). A general term to refer to in vitro diagnostic tests that assess for the presence of tuberculosis (“TB”) infection with Mycobacterium tuberculosis. This term includes, but is not limited to, IFN- $\gamma$  release assays (“IGRA”).

B. The Facility shall conduct an annual tuberculosis risk assessment in accordance with the Centers for Disease Control guidelines to guide the Facility’s infection control policies and procedures related to the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

#### C. Baseline Status.

1. The Facility shall determine the baseline status of all staff according to current Centers for Disease Control and Departmental Tuberculosis guidelines.

2. Tuberculosis Screening. All staff within three (3) months prior to Patient contact shall have a baseline two-step Tuberculin Skin Test (“TST”) or a single Blood Assay for Mycobacterium tuberculosis (“BAMT”). If a newly employed staff or volunteer has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered and read to serve as the baseline prior to Patient contact.

D. Post Exposure. After known exposure to a person with potentially infectious tuberculosis disease without use of adequate personal protection, the tuberculosis status of all staff shall be determined in a manner prescribed in the Centers for Disease Control and Department’s most current tuberculosis guidelines.

E. Annual Tuberculosis Training. All staff shall receive annual training regarding tuberculosis to include risk factors and signs and symptoms of tuberculosis disease. The annual tuberculosis training shall be documented in a staff record and maintained at the Facility.

F. Serial Screening. The Facility shall follow the Centers for Disease Control and Department's most current tuberculosis guidelines related to serial screening.

### **1703. Tuberculosis Screening for Patients (I).**

A. At baseline, Patients in Residential Facilities shall have evidence of a two-step tuberculin skin test or single Blood Assay for Mycobacterium tuberculosis. If the Patient in a Residential Facility has a documented negative tuberculin skin test (at least single-step) within the previous twelve (12) months, the Patient shall have only one (1) tuberculin skin test or single Blood Assay for Mycobacterium tuberculosis to establish a baseline status.

B. Patients in Residential Facilities shall have at least the first step within thirty (30) days prior to admission and no later than forty-eight (48) hours after admission.

C. Patients in the Opioid Treatment Program shall receive the first step of the two-step tuberculin test within seventy-two (72) hours of admission to the Facility. The second step of the two-step tuberculin skin test must be administered within the next seven to fourteen (7 to 14) days.

D. Patients with Positive Tuberculosis Results.

1. Patients with a baseline positive or newly positive test result for Mycobacterium tuberculosis infection (i.e., tuberculosis skin test or Blood Assay for Mycobacterium Tuberculosis) or documentation of treatment for latent tuberculosis infection, tuberculosis disease or signs or symptoms of tuberculosis, e.g., cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude tuberculosis disease (or evaluate an interpretable copy taken within the previous three (3) months). Routine repeat chest radiographs are not required unless symptoms or signs of TB tuberculosis disease develop or unless recommended by a Physician. These Patients will be evaluated for the need for treatment of TB tuberculosis disease or latent tuberculosis infection and will be encouraged to follow the recommendations made by a Physician with tuberculosis expertise (i.e., the Department's Tuberculosis Control program).

2. Patients who are known or suspected to have tuberculosis disease shall be transferred from the Facility if the Facility does not have an Airborne Infection Isolation room, required to undergo evaluation by a Physician, and permitted to return to the Facility only with approval by the Department's Tuberculosis Control program.

### **1704. Housekeeping (II).**

The Facility and its grounds shall be neat, clean, free of vermin, and free of offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the Facility;

2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area, appropriate to the area and the equipment's purpose or use;

3. Chemicals indicated as harmful on the product label, cleaning materials and supplies shall be in locked storage areas and inaccessible to Patients; and

4. During use of chemicals indicated as harmful on the product label, cleaning materials and supplies shall be in direct possession of the Staff member and monitored at all times.

B. Exterior housekeeping shall at a minimum include:

1. Cleaning of all exterior areas, such as porches and ramps, and removal of safety impediments such as water, snow, and ice;and

2. Keeping Facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin.

### **1705. Infectious Waste (I).**

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with R.61-105, Infectious Waste Management, and the OSHA Bloodborne Pathogens Standard.

### **1706. Pets (II).**

A. Healthy animals that are free of fleas, ticks, and intestinal parasites, and have been examined by a veterinarian prior to entering the Facility, have received required inoculations, if applicable, and that present no apparent threat to the health, safety, and well-being of the Patients, shall be permitted in the Facility, provided they are sufficiently fed, and cared for, and that the pets and their housing and food containers are kept clean.

B. Pets shall not be allowed near Patients who have allergic sensitivities to pets, or for other reasons, such as Patients who do not wish to have pets near them.

C. Pets shall not be allowed in the kitchen area. Pets shall be permitted in Patient dining and activities areas only during times when food is not being served. If the dining and activities area is adjacent to a food preparation or storage area, those areas shall be effectively separated by walls and closed doors while pets are present.

### **1707. Clean and Soiled Linen and Clothing for Residential Facilities (II).**

A. Clean Linen and Clothing.

1. A supply of clean, sanitary linen and clothing shall be available at all times;

2. In order to prevent the contamination of clean linen and clothing by dust or other airborne particles or organisms, clean linen and clothing shall be stored and transported in a sanitary manner, for example, enclosed and covered; and

3. Clean linen and clothing shall be separated from storage for other purposes.

B. Soiled Linen and Clothing.

1. Soiled linen and clothing shall not be sorted, rinsed, or washed outside of the laundry service area;

2. Provisions shall be made for collecting, transporting, and storing soiled linen and clothing;

3. Soiled linen and clothing shall be kept in enclosed, covered, and leak proof containers; and

4. Laundry operations shall not be conducted in Patient rooms, dining rooms, or in locations where food is prepared, served, or stored. Patients may sort, rinse, and handwash their own soiled, delicate, personal items, e.g., pantyhose, underwear, socks, handkerchiefs, clothing, accessories, heirloom linens, needlepoint, crocheted, or knitted pillows or pillowcases, or other similar items personally owned and cared for by, in a private bathroom or sink, provided the practice does not create a safety hazard, e.g. water on the floor.

## **SECTION 1700**

### **QUALITY IMPROVEMENT PROGRAM.**

#### **SECTION 1800 – QUALITY IMPROVEMENT PROGRAM (II)**

##### **1701. General (II).**

A. ~~There~~Facilities shall ~~be maintain~~ a written, implemented ~~quality improvement program~~Quality Improvement Program that provides effective self-assessment and implementation of changes designed to improve the treatment/care/services provided by the ~~facility~~Facility.

B. The ~~quality improvement program~~Quality Improvement Program, ~~as at~~ a minimum, shall:

1. Establish desired outcomes and the criteria by which policy and procedure effectiveness is regularly, systematically, and objectively accomplished;

2. Identify, evaluate, and determine the causes of any deviation from the desired outcomes;

3. Identify the action taken to correct deviations and prevent future deviation, and the person(s) responsible for implementation of these actions;

4. Establish ways to measure the quality of ~~client~~Patient care and ~~staff~~Staff performance, as well as the degree to which the policies and procedures are followed;

5. Analyze the appropriateness of ~~ITP's~~Individual Plans of Care and the necessity of treatment/care/services rendered;

6. Analyze the effectiveness of the fire plan;

7. Analyze all incidents and accidents to include ~~client~~Patient deaths;

8. Analyze any infection, epidemic outbreaks, or other unusual occurrences which threaten the health, safety, or well-being of the ~~clients~~Patients; and

9. Establish a systematic method of obtaining feedback from ~~clients~~Patients and other interested persons, e.g., family members and peer organizations, as expressed by the level of satisfaction with treatment/care/services received.

## **SECTION 1800**

~~DESIGN AND CONSTRUCTION.~~  
SECTION 1900 – DESIGN AND CONSTRUCTION

**~~1801~~1901. Codes and Standards.**

The design and construction specifications for Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence shall conform to the most current nationally accepted standards for facility design set forth in the International Building Code (IBC); International Fire Codes (IFC); International Plumbing Codes (IPC); International Mechanical Codes (IMC); National Fire Protection Association (NFPA) codes—NFPA 10—Standard for Portable Fire Extinguishers, NFPA 11—Standard for Low , Medium , and High-Expansion Foam, NFPA 12—Standard on Carbon Dioxide Extinguishing Systems, NFPA 12A—Standard on Halon 1301 Fire Extinguishing Systems, NFPA 13—Standard for the Installation of Sprinkler Systems, NFPA 13R—Standard for the Installation of Sprinkler Systems in Low Rise Residential Occupancies, NFPA 14—Standard for the Installation of Standpipe and Hose Systems, NFPA 15—Standard for Water Spray Fixed Systems for Fire Protection, NFPA 16—Standard for the Installation of Foam Water Sprinkler and Foam Water Spray Systems, NFPA 17—Standard for Dry Chemical Extinguishing Systems, NFPA 17A—Standard for Wet Chemical Extinguishing Systems, NFPA 18—Standard on Wetting Agents, NFPA 20—Standard for the Installation of Stationary Pumps for Fire Protection, NFPA 22—Standard for Water Tanks for Private Fire Protection, NFPA 24—Standard for the Installation of Private Fire Service Mains and Their Appurtenances, NFPA 25—Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, NFPA 30—Flammable and Combustible Liquids Code, NFPA 30A—Code for Motor Fuel Dispensing Facilities and Repair Garages, NFPA 52—Vehicular Gaseous Fuel Systems Code, NFPA 54—National Fuel Gas Code, NFPA 58—Liquefied Petroleum Gas Code, NFPA 59—Utility LP Gas Plant Code, NFPA 70—National Electrical Code®, NFPA 72—National Fire Alarm and Signaling Code, NFPA 96—Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, NFPA 99—Health Care Facilities Code, NFPA 101—Life Safety Code®, and NFPA 110—Standard for Emergency and Standby Power Systems; International Code Council (ICC) American National Standards I (ANSI) A117.1—Accessibility Codes; the Guidelines for Design and Construction of Health Care Facilities as published by the Facility Guidelines Institute (FGI); and International Existing Building Code (IEBC) All Facilities shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each Patient. Facility design shall be such that all Patients have access to required services.

**~~1802~~1902. Local and State Codes and Standards (II).**

~~A. Buildings~~Facilities shall comply with ~~pertinent provisions~~ local and state laws, codes, ordinances and standards with reference to design and construction of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the type of Facility. No ~~facility~~Facility shall be licensed unless the Department has assurance that responsible local zoning and building officials (~~zoning and building~~) have approved the ~~facility~~Facility for code compliance.

~~— B. Buildings designed in accordance with the above mentioned codes will be acceptable to the Department provided the requirements set forth in this regulation are also met.~~

B., All Facilities shall meet the construction codes and regulations for the building and its essential equipment and systems in effect at the time the License was issued unless specifically required otherwise in writing by the Department.

C. Facilities shall ensure all additions, alterations, or renovations meet the codes, regulations, and requirements in effect at the time of the plan's approval.

E. Any Facility that closes or has its License revoked and for which application for licensure is made at the same site shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for licensing.

### **1803. Construction/Systems (II).**

~~—A. All buildings, new and existing, being licensed for the first time, or changing their license to provide a different service, shall meet the current codes and regulations.~~

~~—B. Unless specifically required otherwise in writing by the Department's Division of Health Facilities Construction (DHFC), all existing facilities licensed by the Department shall meet the construction codes and regulations for the building and its essential equipment and systems in effect at the time the license was issued. Except for proposed facilities that have received a current and valid written approval to begin construction, current construction codes, regulations, and requirements shall apply to those facilities licensed after the date of promulgation of these regulations.~~

~~—C. Any additions or renovations to an existing licensed facility shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of the addition or renovation. When the cost of additions or renovations to the building exceeds 50% of the then market value of the existing building and its essential equipment and systems, the building shall meet the then current codes, regulations, and requirements.~~

~~—D. Buildings under construction at the time of the promulgation of these regulations shall meet the codes, regulations, and requirements in effect at the time of the plans approval.~~

~~—E. Any facility that closes or has its license revoked and for which application for re-licensure is made at the same site shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for re-licensing.~~

### **18041903. Submission of Plans and Specifications (II).**

A. Prior to construction for new buildings, additions, major alterations or replacement to existing buildings, when a building is licensed for the first time, when a building changes ~~license~~License type, or a ~~facility~~Facility increases occupant load/licensed capacity, plans and specifications shall be submitted to the Department for review, unless otherwise agreed to with the Department. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. These submissions shall be made in at least three (3) stages: schematic, design development, and final. All plans shall be drawn to scale with the title, stage of submission, and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a construction plan approval has been received from the Department. During construction the owner and/or Licensee shall employ a registered architect and/or engineer for supervision and ~~inspections~~Inspections. ~~The Department shall conduct periodic inspections throughout each project.~~

B. ~~When alterations are contemplated that are new construction, or projects with changes to the physical plant of a licensed facility which has an effect on: the function, use or accessibility of an area; structural integrity; active and passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under the said hood); door, wall and ceiling system assemblies; exit corridors;~~



~~which increase the occupant load/licensed capacity; and projects pertaining to any life safety systems, preliminary drawings and specifications, accompanied by a narrative (submitted on the Project Information Form, DHEC form 0275) completely describing the proposed work, shall be submitted to the Department.~~The Facility shall submit plans and specifications to the Department for review and approval for projects that have an effect on:

1. The function of a space;
2. The accessibility to or of an area;
3. The structural integrity of the Facility;
4. The active and/or passive fire safety systems;
5. Doors;
6. Walls;
7. Ceiling system assemblies;
8. Exit corridors;
9. Life safety systems; or
10. That increase the occupant load or capacity of the Facility.

C. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications, kept on file at the ~~facility~~Facility, and made available to the Department.

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

#### **~~1805~~1904. Construction Inspections.**

~~—Construction work that violates applicable codes or standards shall be brought into compliance. All projects shall obtain all required permits from the locality having jurisdiction. The Department will not commence inspection unless the construction has proper permitting.~~Construction without a proper permit shall not be inspected by the Department.

### **SECTION 1900**

#### **~~GENERAL CONSTRUCTION REQUIREMENTS.~~**

#### **~~1901. Fire-Resistive Rating (I)~~**

~~The fire-resistive ratings for the various structural components shall comply with the applicable code(s) in Section 1800. Fire resistive ratings of various materials and assemblies not specifically listed in the codes can be found in publications of recognized testing agencies such as Underwriters Laboratories—Building Materials List and Underwriters Laboratories—Fire Resistance Directory.~~

## **~~1902. Curtains and Draperies.~~**

~~In bathrooms and client rooms, window treatments shall provide privacy.~~

### **SECTION 2000**

#### **~~FIRE PROTECTION EQUIPMENT AND SYSTEMS.~~**

#### **SECTION 2000 – FIRE PROTECTION, PREVENTION, AND LIFE SAFETY (I)**

### **2001. Fire Alarms (I)**

A. ~~Each facility~~Facilities with six (6) or more licensed Residential beds shall have a partial, manual, automatic, supervised fire alarm system. The system shall be arrangedThe Facility shall arrange the system to transmit an alarm automatically to a third party. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculation systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. ~~There must be a fire alarm pull station in or near each nurse or supervised charge station.~~For Residential Facilities only, all fire, smoke, heat, sprinkler flow, and manual fire alarming devices shall be connected to and activate the main fire alarm system when activated.

C. ~~All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.~~The fire-resistive ratings for the various structural components shall comply with the applicable code(s) in Section 1900. Fire-resistive ratings of various materials and assemblies not specifically listed in the codes can be found in publications of recognized testing agencies such as Underwriters Laboratories - Building Materials List and Underwriters Laboratories - Fire Resistance Directory.

D. The Facility shall not have single and multi-station smoke alarms.

#### **SECTION 2100 – [RESERVED]**

#### **SECTION 2200 – [RESERVED]**

#### **SECTION 2300 – [RESERVED]**

### **SECTION 2400**

#### **~~ELECTRICAL.~~**

#### **SECTION 2400 – ELECTRICAL**

### **2401. Receptacles (II).**

A. Patient Room. Each Patient room shall have duplex grounding type receptacles located to include one (1) at the head of each bed.

B. Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of the ends of corridors.

### **2402. Ground Fault Protection (I).**

A. Ground fault circuit-interrupter protection shall be provided for all outside receptacles and bathrooms.

B. The Facility shall provide ground fault circuit-interrupter protection for any receptacles within six (6) feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.

**2403. Exit Signs (I).**

A. In Facilities licensed for six (6) or more beds, required exits and ways to access thereto shall be identified by electrically-illuminated exit signs.

B. Changes in egress direction shall be marked with exit signs with directional arrows.

C. Exit signs in corridors shall be provided to indicate two (2) directions of exit.

**24012404. Emergency Electric Service (I).**

Emergency electric services shall be provided as follows:

- A. Exit lights, if required;
- B. Exit access corridor lighting;
- C. Illumination of means of egress; and
- D. Fire detection and alarm system, if required.

**24022405. Emergency Generator Service.**

A. Residential ~~Treatment Program~~ Facilities and Narcotic ~~Treatment Program~~ shall have an emergency generator and shall provide certification that construction and installation of emergency generator service complies with requirements of all adopted ~~S~~state, ~~F~~federal, or local codes, ordinances, and regulations.

B. Residential ~~Treatment Program~~ Facilities and Narcotic ~~Treatment Program~~ shall have an emergency generator that provides emergency electrical service during interruption of the normal electrical service and shall be provided to the distribution system as follows:

1. Exit lights and exit directional signs;
2. Exit access corridor lighting;
3. Lighting of means of egress and ~~staff~~Staff work areas;
4. Fire detection and alarm systems;
5. In ~~patient~~Patient care areas;
6. Signal system;
7. Equipment necessary for maintaining telephone service;

8. Elevator service that will reach every ~~patient~~Patient floor when rooms are located on other than the ground floor;

9. Fire pump (if applicable);

10. Equipment for heating and cooling ~~patient~~Patient rooms;

11. Public restrooms;

12. Essential mechanical equipment rooms;

13. Battery-operated lighting and a receptacle in the vicinity of the emergency generator;

14. Alarm systems, water flow alarm devices, and alarms required for medical gas systems; and

15. Patient records when solely electronically based.

#### SECTION 2500 – [RESERVED]

#### SECTION 2200

#### PHYSICAL PLANT.

#### SECTION 2600 – PHYSICAL PLANT

#### **22012601. Facility Accommodations/ and Floor Area (II).**

A. ~~24-hour~~Residential Facilities; ~~there shall be provide sufficient living arrangements for everyone~~all Patients, including residing therein providing for client's quiet reading, study, relaxation, entertainment, or recreation. ~~This shall include bedrooms, bathrooms, living, dining, and recreational areas available for clients' use. Consideration shall be given to the preferences of the clients in determining appropriate homelike touches in the facility client rooms and activity/dining areas.~~

B. ~~Minimum~~Residential Facilities shall meet minimum square footage requirements ~~shall be~~ as follows:  
(II)

1. Twenty (20) square feet per licensed bed of living and recreational areas combined, excluding bedrooms, halls, kitchens, dining rooms, bathrooms, and rooms not available to the ~~clients~~Patients. In ~~facilities~~Facilities for ~~mothers~~parents with children, there shall be at least twenty (20) square feet per licensed bed and ten (10) square feet per child of living and recreational areas together.

2. Fifteen (15) square feet of floor space in the dining area per licensed bed. In ~~facilities~~Facilities for ~~mothers~~parents with children, dining space shall accommodate fifteen (15) square feet per licensed bed and seven and a half (7.5) square feet per child.

C. ~~All required care/treatment/services furnished at the facility shall be provided in a manner which does not require clients~~Residential Facilities shall not require Patients to ambulate from one site to another outside the building, ~~nor which impedes clients~~ and shall not impede Patients from ambulating from one site to another due to the presence of physical barriers.

D. ~~There~~Residential Facilities shall make ~~be~~ accommodations available to meet group needs of ~~clients~~Patients and their visitors.

E. ~~Methods for~~Residential Facilities shall ensuring ensure visual and auditory privacy between ~~client~~Patients and ~~staff/~~Staff and ~~volunteers shall be provided as necessary~~Volunteers.

#### **22022602. Design (I).**

~~A facility~~Facilities shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each ~~client~~Patient. Facility design shall be such that all ~~clients~~Patients have access to required services. There shall be two hundred (200) gross square feet per licensed bed in facilities~~Residential Facilities~~ ten (10) beds or less, and an additional one hundred (100) gross square feet per licensed bed for each licensed bed over ten (10).

#### **22032603. Furnishings/ and Equipment (I).**

A. ~~The~~Facilities shall ensure the physical plant ~~shall be maintained~~is free of fire hazards ~~or and~~ impediments to fire prevention.

B. ~~No~~Facilities shall not have any portable electric or unvented fuel heaters ~~shall be permitted~~.

C. ~~Fireplaces~~Facilities shall ensure that fireplaces and fossil-fuel stoves, ~~e.g., wood burning, shall~~ have partitions, ~~or~~ screens, or other means to prevent burns. ~~Fireplaces shall be~~Facilities shall ensure that fireplaces are vented to the outside and shall prohibit “unvented”. ~~“Unvented” type gas logs are not allowed.~~ Gas~~Facilities shall ensure that gas~~ fireplaces shall have a remote gas shutoff within the room ~~and but~~ not inside the fireplace.

#### **22042604. Number and Locations (I)- Exits (I).**

A. If exit doors and cross-corridor doors are locked, the requirements under Special Locking Arrangements shall be met as applicable to the code listed in Section ~~4804~~1900.

B. ~~Halls~~Facilities shall maintain halls, corridors, and all other means of egress from the building ~~shall be maintained~~ free of obstructions.

C. ~~Those clients that may require physical or verbal assistance to exit the building shall not be located above or below the floor of exit discharge~~Facilities shall not assign Patients needing physical or verbal assistance to exit the building to rooms located above or below the floor of exit discharge.

D. ~~Each client~~Facilities shall ensure that each Patient room ~~shall open~~opens directly to an approved exit access corridor without passage through another occupied space or ~~shall have~~has an approved exit directly to the outside at grade level and accessible to a public space free of encumbrances. When two (2) ~~client~~Patient rooms share a common “sitting” area, the “sitting” area shall ~~that opens~~ onto the exit access corridor.

#### **22052605. Water Supply/ and Hygiene (II).**

~~Client~~Facilities shall ensure that Patient and staff~~Staff~~ hand-washing lavatories, and ~~client~~Patient showers/ and tubs ~~shall be~~are supplied with hot and cold water at all times.

#### **22062606. Temperature Control (I).**

A. ~~Facilities shall ensure that plumbing fixtures accessible to Patients and requiring hot water to have a water supply that is thermostatically controlled to a temperature of at least one hundred (100) degrees F-Fahrenheit and not to exceed one hundred and twenty (120) degrees F-Fahrenheit at the fixture.~~

B. ~~The water heater or combination of heaters shall be sized to~~Residential Facilities shall ensure that water heaters provide at least six (6) gallons of water per hour per bed at the above temperature range. (II)

C. Hot water supplied to the kitchen equipment/utensil washing sink shall be supplied at one hundred and twenty (120) degrees F-Fahrenheit provided all kitchen equipment/utensils are chemically sanitized. For those ~~facilities~~Facilities sanitizing with hot water, the sanitizing compartment of the kitchen equipment/and utensil washing sink shall be capable of maintaining the water at a temperature of at least ~~180~~one hundred and seventy one (171) degrees F-Fahrenheit.

D. Hot water provided for washing linen/and clothing shall not be less than one hundred and sixty (160) degrees F-Fahrenheit. Should chlorine additives or other chemicals which contribute to the margin of safety in disinfecting linen/clothing be a part of the washing cycle, the minimum hot water temperature shall not be less than one hundred and ten (110) degrees F-Fahrenheit, provided hot air drying is used. (II)

#### **2607. Cross-connections (I).**

Facilities shall ensure that there are no cross-connections in plumbing between safe and potentially unsafe water supplies. Facilities shall ensure water is delivered at least two (2) delivery pipe diameters above the rim or points of overflow to each fixture, equipment, and service unless protected against back-siphonage by approved vacuum breakers or other approved back-flow preventers. Facilities shall ensure that all faucets and fixtures which may be attached to a hose have an approved vacuum breaker or other approved back-flow preventer.

#### **22072608. Design and Construction of Wastewater Systems (I).**

A. ~~The~~Residential Facilities shall ensure the wastewater system for commercial kitchens shall be in accordance with R.61-25, Retail Food Establishments.

B. ~~Liquid waste shall be disposed of~~Facilities shall dispose of liquid waste in a wastewater system approved by the local authority, e.g., sewage treatment facility.

#### **2208. 2609. Electric Wiring (I).**

~~Wiring shall be inspected at least annually by~~Facilities shall ensure that a licensed electrician, registered engineer, or certified building inspector inspects the electric wiring at least annually.

#### **2209. 2610. Panelboards (II).**

~~The directory shall be labeled~~Facilities shall label the panelboard directory to conform to the actual room numbers or designations and shall maintain clear access to the panelboard. Clear access of stored materials shall be maintained to the panel. The panelboard directory shall be labeled to conform to the actual room numbers or designations.

#### **22102611. Lighting.**

~~A. Spaces~~Facilities shall maintain lighting in spaces occupied by persons, machinery, and equipment within buildings, approaches to buildings, and parking lots~~shall be lighted.~~ (II)

~~B. Adequate~~Facilities shall provide artificial light~~shall be provided to include~~with sufficient illumination for reading, observation, and activities.

~~C. Client rooms shall have general lighting in all parts of the room, and shall have~~Residential Facilities shall maintain general lighting in all parts of Patients' rooms, and shall provide at least one (1) light fixture for night lighting in each Patient room. A reading light shall be provided for each clientResidential Facilities shall provide a reading light to each Patient.

~~D. Hallways,~~Facilities shall maintain lighted hallways, stairs, and all other means of egress~~shall be lighted~~at all times.

#### **2211. Ground Fault Protection (I).**

~~—A. Ground~~fault circuit interrupter protection shall be provided for all outside receptacles and bathrooms.

~~—B. Ground fault circuit interrupter protection shall be provided for any all receptacles within six feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.~~

#### **2212. Exit Signs (I).**

~~—A. In facilities licensed for six or more beds, required exits and ways to access thereto shall be identified by electrically illuminated exit signs bearing the words "Exit" in red letters six inches in height on a white background.~~

~~—B. Changes in egress direction shall be marked with exit signs with directional arrows.~~

~~—C. Exit signs in corridors shall be provided to indicate two directions of exit.~~

#### **2213-2612. Heating, Ventilation, and Air Conditioning (HVAC) (II).**

~~A. The~~HVAC~~Facilities shall ensure that a certified or licensed technician inspects the heating, ventilation, and air conditioning system shall be inspected at least annually~~once a year by a certified/licensed technician.

~~B. The facility~~Facilities shall maintain a temperature of betweenseventy-two (72)- and seventy-eight (78)-degrees F.Fahrenheit in clientPatient areas.

~~C. No HVAC supply or return grill shall be installed within~~Facilities shall ensure that heating, ventilation, and air conditioning supplies and return grills are installed at least three (3) feet ofaway from a smoke detector. (I)

D. Facilities shall ensure that heating, ventilation, and air conditioning grills are not installed in the floors.

~~—DE. Intake~~Facilities shall ensure that intake air ducts~~shall be~~filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials. The system shall not discharge in such a manner that would be an irritant to the clients/ staff/ volunteersFacilities shall ensure discharge from the heating, ventilation, and air conditioning system does not irritate Patients, Staff, and Volunteers.

~~—EF. Each bath/~~ Facilities shall have operable windows or approved mechanical ventilation in every bathroom and restroom ~~shall have either operable windows or have approved mechanical ventilation.~~

G. Facilities shall ensure all kitchen areas are ventilated to prevent excessive heat, steam, condensation, vapors, smoke, and fumes.

#### **2214. 2613. Client/Patient Rooms.**

A. ~~Each client room shall be equipped with the following as a minimum for each client~~ Residential Facilities shall provide the following equipment in each Patient room for each Patient:

1. A comfortable single bed having a mattress with moisture-proof cover, sheets, blankets, pillow and pillowcases; ~~roll-away~~ Roll-away type beds, cots, bunkbeds, and folding beds ~~shall not be used~~ are not permitted. ~~It is permissible~~ Facilities are permitted to remove a ~~client~~ Patient bed and place the mattress on a platform or pallet, or utilize a recliner, ~~provided upon approval by the physician~~ Physician or other authorized healthcare provider has approved, ~~Authorized Healthcare Provider~~ and the decision is documented ~~documentation is provided~~ in the ~~IPT~~ Individual Plan of Care. (II)

2. A closet or wardrobe, a bureau consisting of at least three (3) drawers, and a compartmentalized bedside table/ or nightstand to adequately accommodate each ~~client's~~ Patient's personal clothing, belongings, and toilet articles. ~~Built-in storage is permitted~~ Facilities are permitted to utilize built-in storage.

~~EXCEPTION: In existing facilities, if square footage is limited, clients may share these storage areas; however, specific spaces within these storage areas shall be provided particular to each client.~~

3. A comfortable chair for each ~~client~~ Patient occupying the room. ~~In existing facilities, if~~ If the available square footage of the ~~client~~ Patient room will not accommodate a chair for each ~~client~~ Patient or if the provision of multiple chairs impedes ~~client~~ Patient ability to freely and safely move about within their room, ~~Facilities shall provide at least one (1) chair shall be provided, and provisions made to have and make additional chairs available for temporary use in the client's~~ Patient's room by/for visitors.

B. ~~If hospital-type beds are used, there shall be~~ Facilities that use hospital-type beds shall maintain at least two (2) lockable casters on each bed, located either diagonally or on the same side of the bed.

C. ~~Beds shall not be placed~~ Facilities shall not place beds in corridors, solaria, or other locations not designated as ~~client~~ Patient room areas. (I)

D. ~~No client room shall contain more than~~ Facilities shall ensure Patient rooms have a maximum of three (3) beds. ~~In facilities~~ Facilities with mothers with children; shall ensure Patient rooms have a maximum of one (1) licensed bed and two (2) cribs or beds ~~no client room shall contain more than one (1) licensed bed and two cribs/beds.~~ (II)

E. ~~No client room shall be located~~ Facilities shall not have any Patient rooms in a basement.

F. ~~Access~~ Facilities shall not provide access to a ~~client~~ Patient room ~~shall not be by way of~~ through another ~~client~~ Patient room, toilet, bathroom or kitchen.

~~EXCEPTION: Access through the kitchen is permissible in facilities with five beds or less.~~



G. ~~Facilities shall provide bed pans, urinals, hot water bottles, and any other equipment necessary to meet Patient needs.~~ Such equipment as bed pans, urinals, and hot water bottles as necessary to meet client needs shall be provided. ~~Portable commodes shall be permitted.~~ Facilities are permitted to have portable toilets in ~~client~~ Patient rooms only at night or in case of temporary illness, and shall keep them stored at all other times. ~~At all other times, they shall be suitably stored.~~ Facilities are permitted to permanently position a portable toilet at a Patient's bedside if the toilet is sanitary and the Patient room is private and of a sufficient size. ~~Permanent positioning of a portable toilet at bedside shall only be permitted if the room is private, the commode is maintained in a sanitary condition, and the room is of sufficient size to accommodate the commode.~~ (II)

H. ~~Side rails may be utilized.~~ Facilities are permitted to utilize side rails when required for safety and when ordered by a ~~p~~Physician or other ~~a~~Authorized ~~h~~Healthcare ~~p~~Provider. (II)

I. ~~In semi-private rooms,~~ Facilities shall ensure privacy when personal care is being given to a Patient in a semi-private room, arrangements shall be made to ensure privacy, e.g., portable partitions or cubicle curtains when needed or requested by a client.

J. ~~Consideration shall be given to client.~~ Facilities shall consider Patient compatibility in the assignment of rooms for which there is multiple occupancy.

K. ~~At~~ Facilities shall have at least one (1) private room ~~shall be available in the facility.~~ Facility in order to provide assistance in addressing ~~client~~ Patient compatibility issues, ~~client~~ Patient preferences, and accommodations for ~~clients~~ Patients with communicable disease.

#### **2215-2614. Client/Patient Room Floor Area.**

A. Except for ~~facilities~~ Residential Facilities of five (5) beds or less, each ~~client~~ Patient room is considered a tenant space and shall be enclosed by one (1)-hour fire-resistive construction with a twenty (20)-minute fire-rated door, opening onto an exit access corridor. (I)

B. Each ~~client~~ Patient room shall be an outside room with an outside window or door for exit in case of emergency. This window or door may not open onto a common screened porch. (I)

C. The ~~client~~ Patient room floor area is a usable or net area and does not include wardrobes (built-in or freestanding), closets, or the entry alcove to the room. The following allowance of floor space shall be as a minimum: (II)

1. Rooms for only one (1) ~~client~~ Patient: one hundred (100) square feet;

2. Rooms for more than one (1) ~~client~~ Patient: eighty (80) square feet per ~~client~~ Patient.

3. In ~~facilities~~ Facilities for mothers with children, rooms for ~~client~~ Patient and child: eighty (80) square feet per licensed bed and forty (40) square feet per child with a maximum of two (2) children per ~~client~~ Patient. When a bed is required in lieu of a crib for a child, the square footage shall be fifty (50) square feet per child.

D. ~~There shall be~~ Facilities shall maintain at least three (3) feet between beds. (II)

#### **22162615. Bathrooms/ and Restrooms (II).**

A. Privacy shall be provided at toilets, urinals, bathtubs, and showers.

B. An adequate supply of toilet tissue shall be maintained in each bathroom.

~~C. In bath/restrooms not designed for the disabled, the restroom floor area shall not be less than 15 square feet.~~

~~D.~~ E. There shall be at least one (1) handwash lavatory ~~in or adjacent to each bathroom/restroom/toilet.~~ Liquid soap shall be provided in public restrooms and bathrooms used by more than one (1) Patient. Communal use of bar soap is prohibited. ~~and a~~ A sanitary individualized method of drying hands shall be available at each lavatory.

E. Easily cleanable receptacles shall be provided for waste materials. Such receptacles in toilet rooms for women shall be covered. The Facility shall ensure receptacles are non-combustible or fire resistant as required by building codes reference in Section 1900.

~~F. The number of bathrooms/restrooms for the disabled shall be provided whether any of the clients are classified as disabled or not in accordance with the applicable code in Section 1800.~~

G. All bathroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

H. There shall be a mirror above each bathroom lavatory for ~~clients'~~ Patients' grooming.

I. ~~In 24 Hour Residential Facilities:~~

~~1. Toilets shall be provided in ample number.~~ Facilities shall provide an ample number of toilets to serve the needs of the clients. ~~Patients and staff/volunteers.~~ Staff members, Volunteers, and the public. ~~The minimum number shall be.~~ Facilities shall provide Patients with a minimum of one (1) toilet for each six (6) licensed beds or fraction thereof.

2. All bathtubs, toilets, and showers used by ~~clients~~ Patients shall have approved grab bars securely fastened in a usable fashion.

3. There shall be one (1) bathtub or shower for each eight (8) ~~licensed beds~~ or fraction thereof.

~~4. Separate bathroom facilities shall be provided for live-in staff/volunteers and/or family. Where there is no live-in staff/volunteers, separate toilet facilities shall be provided for staff/volunteers in facilities with 11 or more beds. Separate bathrooms shall be provided for Staff members, Volunteers, and the public.~~

5. Toilet facilities shall be ~~conveniently located~~ at or adjacent to the kitchen for kitchen employees. ~~The doors of all toilet facilities located in the kitchen shall be self-closing.~~

6. ~~Bath~~ Soap, bath towels, and washcloths shall be provided to ~~the client~~ each Patient as needed. Bath linens assigned to specific ~~clients~~ Patients may not be stored in centrally-located bathrooms. Provisions shall be made for each ~~client~~ Patient to properly keep their bath linens in his/her/their room, ~~i.e. such as,~~ on a towel hook ~~bar or bar~~ designated for each ~~client~~ Patient occupying that room, or bath linens to meet ~~client~~ Patient needs shall be distributed as needed, and collected after use and stored properly, per Section ~~1408~~ 1707.

H. Facilities shall have bathrooms and restrooms equipped for handicapped persons as required by building codes referenced in Section 1900.

**EXCEPTION:** Bath linens assigned to specific clients for immediate use may be stored in the bathroom provided the bathroom serves a single occupancy (one client) room, or is shared by occupants of adjoining rooms, for a maximum of six clients. A method that distinguishes linen assignment and discourages common usage shall be implemented.

#### **2217. Seclusion Room (II);**

—A. A room used for seclusion shall have at least sixty (60) square feet of floor space and be free of safety hazards, and appropriately lighted. All areas of the room shall be clearly visible from the outside.

—B. There shall not be items or articles in a seclusion room that a client Patient might use to injure him/or herself.

—C. A mat and bedding shall be provided in the seclusion room unless an exception is authorized by order of a physician or other authorized healthcare provider.

#### **2218.2617. ClientPatient Care Unit and Station (Applicable to for medical detoxification facilities only)Medical Withdrawal Management Programs (II).**

A. Each clientPatient care unit shall have a clientPatient care station.

B. A clientPatient care unit shall contain not more than 60forty-four (44) licensed beds; and the clientPatient care station shall not be more than one hundred fifty (150) feet from a clientPatient room, and shall be located and arranged to permit visual observation of the unit corridor(s).

C. Each clientPatient care station shall contain separate spaces for the storage of wheelchairs and general supplies/equipment for that station.

D. There shall be at, or near each clientPatient care station, a separate medicine preparation room with a cabinet with one or more locked sections for narcoticsControlled Substances, work space for preparation of medicine, and a sink. As an alternative, a medicine preparation area with counter, cabinet space, and a sink shall be required on those units where there is:

1. A unit dose system in which final medicationMedication preparation is not performed on the clientPatient care station; or

2. A twenty-four (24)-hour pharmacy on the premises; or

3. Procedures that preclude medicationMedication preparation at the clientPatient care station.

#### **2219.2618. Doors (II).**

A. All clientPatient rooms and bathbathrooms and /restrooms shall have opaque doors for the purpose of privacy.

B. All glass doors, including sliding or patio type doors shall have a contrasting or other indicator that causes the glass to be observable, e.g., a decal located at eye level.

—C. Exit doors required from each floor shall swing in the direction of exit travel. Doors, except those to spaces such as small closets that are not subject to occupancy, shall not swing into corridors in a manner

~~that obstructs corridor traffic flow or reduces the corridor width to less than one half the required width during the opening process.~~

**EXCEPTION:** ~~Not applicable to facilities with five or less beds not built to institutional standards.~~

~~DC.~~ Bathroom/ and restroom door widths shall be not less than ~~32~~ thirty-six (36) inches.

~~ED.~~ Doors to ~~client~~ Patient occupied rooms shall be at least ~~32~~ thirty-six (36) inches wide.

~~FE.~~ Doors that have locks shall be unlockable and openable with one action.

~~GF.~~ If ~~client~~ Patient room doors are lockable, there shall be provisions for emergency entry. There shall not be locks that cannot be unlocked and operated from inside the room.

~~HG.~~ All ~~client~~ Patient room doors shall be solid-core.

~~I.~~ Soiled linen storage rooms over 100 square feet shall be in accordance with applicable code in Section 1800.

~~J.~~ Seclusion room doors shall have a window through which all parts of the room are observable.

## **2220.2619. Elevators (II).**

~~Elevators shall be inspected and tested upon installation prior to first use, and annually thereafter by a certified elevator inspector.~~ Facilities shall ensure that a certified elevator inspector inspects and tests elevators upon installation prior to first use and annually thereafter.

## **2221. Corridors (II)**

~~A. Corridor width requirements for 24-hour facilities shall be as follows:~~

~~1. Less than six licensed beds — not less than 36 inches;~~

~~2. Six to 10 licensed beds — not less than 40 inches;~~

~~3. Over 10 licensed beds — not less than 44 inches.~~

~~B. Corridors and passageways in all facilities shall be in accordance with the SBC.~~

## **2222. Ramps (II)**

~~A. At least one exterior ramp, accessible by all clients, staff, and visitors shall be installed from the first floor to grade.~~

~~B. The ramp shall serve all portions of the facility where clients are located.~~

~~C. The surface of a ramp shall be of nonskid materials.~~

~~D. Ramps shall be constructed in a manner in compliance with the applicable code in Section 1800.~~

~~E. Ramps in facilities with 11 or more licensed beds shall be of noncombustible construction. (I)~~

~~— F. Ramps shall discharge onto a surface that is firm and negotiable by disabled persons in all weather conditions and to a location accessible for loading into a vehicle.~~

#### **~~2223. Landings (II)~~**

~~— Exit doorways shall not open immediately upon a flight of stairs. A landing shall be provided that is at least the width of the door and is the same elevation as the finished floor at the exit.~~

#### **~~2224. Handrails/Guardrails (II)~~**

~~— Handrails and Guardrails shall be installed and maintained in accordance with the applicable code in Section 1800.~~

#### **~~2225.2620. Screens (II).~~**

~~Windows~~Facilities shall equip windows, doors, and openings intended for ventilation shall be provided with insect screens.

#### **~~2226. Windows~~**

~~— A. The window dimensions and maximum height from floor to sill shall be in accordance with the applicable code in Section 1800.~~

~~— B. Where clear glass is used in windows, with any portion of the glass being less than 18 inches from the floor, the glass shall be of “safety” grade, or there shall be a guard or barrier over that portion of the window. This guard or barrier shall be of sufficient strength and design so that it will prevent an individual from injuring him/herself by accidentally stepping into or kicking the glass. (II)~~

#### **~~2227.2621. Janitor’s Closet (II).~~**

~~There shall be a~~Residential Facilities shall maintain a lockable janitor’s in 24 hour facilities with 16 or more beds. Each~~closet equipped with a mop sink or receptor and space for the storage of supplies and equipment.~~

#### **~~2228.2622. Storage Areas.~~**

~~A. Adequate~~Facilities shall provide adequate general storage areas shall be provided for client~~and staff/ volunteers~~Patient and Volunteer belongings, equipment, and supplies.

~~B. Areas~~Facilities shall ensure that areas used for storage of combustible materials and storage areas exceeding one hundred (100) square feet in area shall be providedare equipped with an~~a~~National Fire Protection Association-approved automatic sprinkler system. (I)

~~C. In storage areas provided with a sprinkler system, a minimum vertical distance of~~eighteen (18) inches shall be maintained between the top of stored items and the sprinkler heads. The tops of storage cabinets and shelves attached to or built into the perimeter walls may be closer than eighteen (18) inches below the sprinkler heads. In non-sprinklered storage areas, there shall be at least twenty-four (24) inches of space from the ceiling. (I)

D. All ceilings, floor assemblies, and walls enclosing storage areas of one hundred (100) square feet or greater shall be of not less than one (1)-hour fire-resistive construction with three-fourths (3/4)-hour fire-rated door(s) and closer(s). (I)

E. ~~Storage~~Facilities shall ensure that storage buildings on the premises ~~shall meet the applicable code listed in section 48001900 regarding distance from the licensed building. Storage in buildings other than on the facility premises shall be secure and accessible.~~ An appropriate controlled environment shall be provided if necessary for storage of items requiring such an environment.

F. ~~In mechanical rooms used for storage, the stored items shall be~~ Facilities shall ensure that items stored in mechanical rooms are located away from mechanical equipment and shall not be ~~are not~~ a type of storage that might create a fire or other hazard. (I)

G. ~~Supplies/equipment shall not be stored~~Facilities shall not store supplies and equipment directly on the floor. ~~Supplies~~Facilities shall not store supplies and equipment susceptible to water damage ~~and~~ contamination shall not be stored under sinks or other areas with a propensity for water leakage.

H. ~~In facilities licensed for 16 beds or more, there~~Facilities licensed for more than fifteen (15) beds shall ~~maintain~~ a soiled linen storage room ~~which shall be~~ designed, enclosed, and used solely for that purpose; ~~and provided with~~ and equipped with mechanical exhaust directly to the outside.

#### **2229-2623. Telephone Service.**

A. ~~Appropriate telephone services shall be made available in the facility to clients and/or visitors.~~ Facilities shall provide at least one (1) telephone on each floor of the Facility with at least one (1) active main or fixed-line telephone service available.

B. ~~At~~Facilities shall provide at least one (1) telephone shall be available on each floor ~~of the facility for use by clients and/or visitors for their private, discretionary use; pay phones for this purpose are acceptable. Staff members and Volunteers to conduct routine business of the Facility and to summon assistance in the event of an emergency. Telephones capable of only local calls are acceptable for this purpose, provided other arrangements exist to provide client/visitor discretionary access to a telephone capable of long distance services.~~ The Facility shall ensure Patients have privacy when using the telephone.

~~C. At least one telephone shall be provided for staff/volunteers to conduct routine business of the facility and to summon assistance in the event of an emergency; pay station phones are not acceptable for this purpose.~~

#### **2230-2624. Location.**

A. ~~Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic~~Facilities shall ensure that roads serving the Facility are passable at all times.

B. ~~Parking. The facility shall have parking space to reasonably satisfy the needs of clients, staff/volunteers, and visitors~~Facilities shall provide parking space to meet the needs of Patients, Staff, Volunteers, and visitors.

C. ~~Access to firefighting equipment.~~ Facilities shall maintain adequate access to and around the buildings ~~(s)~~ for firefighting equipment. (I)

~~D. NTP facilities~~ Facilities providing an Opioid Treatment Program shall not operate within five hundred (500) feet of:

1. The property line of a church;
2. The property line of a public or private elementary or secondary school;
3. A boundary of any Residential district;
4. A public park adjacent to any Residential district; or
5. The property line of a lot devoted to Residential use.

#### **2231.2625. Outdoor Area.**

~~A. Outdoor~~ Facilities shall ensure outdoor areas deemed where unsafe due to the existence of, unprotected physical hazards such steep grades, cliffs, open pits, high voltage electrical equipment, high speed or heavily traveled roads, and/or roads exceeding two lanes excluding turn lanes, ponds, or swimming pools exist shall be enclosed by a fence or a natural barrier of a (size, shape, and density that effectively impedes travel to the hazardous area) ~~to protect clients.~~ (I)

~~—B. Where required, fenced areas that are part of a fire exit from the building, shall have a gate in the fence that unlocks in case of emergency per Special Locking Arrangements in the applicable code listed in Section 1800. (I)~~

~~—C. Mechanical or~~ Facilities shall protect mechanical and equipment rooms that open to the outside of the facility Facility shall be kept protected from unauthorized individuals.

~~—D. If a swimming pool is part of the facility, it shall be designed, constructed, and maintained pursuant to R.61-51. (II)~~

~~—E. There shall be sufficient number of outside tables and comfortable chairs to meet the needs of the client.~~

#### **SECTION 2300**

#### **~~SEVERABILITY.~~**

#### **SECTION 2700 – SEVERABILITY**

#### **2301. General**

In the event that any portion of ~~these regulations~~ this regulation is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of ~~these regulations~~ this regulation, and they shall remain in effect, as if such invalid portions were not originally a part of ~~these regulations~~ this regulation.

#### **SECTION 2400**

#### **~~GENERAL.~~**

#### **SECTION 2800 - GENERAL**

## **2401. General**

Conditions that have not been addressed in ~~these regulations~~ this regulation shall be managed in accordance with the best practices as interpreted by the Department.

## **PART II OUTPATIENT FACILITIES**

### **SECTION 2500**

#### **PROGRAM DESCRIPTION.**

## **2501. General.**

~~—A. Outpatient facilities provide treatment/care/services to individuals who use, abuse, or are dependent upon or addicted to psychoactive substances, and their families, based upon an ITP in a nonResidential setting.~~

~~—B. Outpatient treatment/care/services include assessment, diagnosis, individual and group counseling, family counseling, case management, crisis management services, and referral. Outpatient services are designed to treat the individual's level of problem severity and to achieve permanent changes in his/her behavior relative to alcohol/drug abuse. These services address major lifestyle, attitudinal and behavioral issues that have the potential to undermine the goals of treatment or the individual's ability to cope with major life tasks without the nonmedical use of alcohol or other drugs. The length and intensity of outpatient treatment varies according to the severity of the individual's illness and response to treatment.~~

## **2502. Assessment**

~~—A complete written assessment of the client shall be conducted within a time period determined by the facility, but no later than the third visit. (H)~~

## **2503. Individualized Treatment Plan**

~~—An ITP in accordance with Section 701.C & D shall be completed within a time period determined by the facility, but no later than the third visit. (H)~~

## **PART III TREATMENT PROGRAM**

### **SECTION 2600**

#### **PROGRAM DESCRIPTION.**

## **2601. General**

~~—A. Residential treatment programs utilize a multi-disciplinary staff for clients whose biomedical and emotional/behavioral problems are severe enough to require Residential services and who are in need of a stable and supportive environment to aid in their recovery and transition back into the community. Twenty-four hour observation, monitoring, and treatment shall be available.~~



~~— B. Residential treatment programs shall provide or make available the following: (II)~~

~~—— 1. Room and board including shared responsibility by clients for daily operation of the facility, e.g., cooking, cleaning, and maintenance of house rules as appropriate to the level of Residential treatment provided.~~

~~—— 2. Specialized professional consultation, supervision and direct affiliation with other levels of treatment;~~

~~—— 3. Physician and nursing care and observation based on clinical judgment if appropriate to the level of treatment;~~

~~—— 4. Arrangements for appropriate laboratory and toxicology tests as needed;~~

~~—— 5. Availability of a physician 24 hours a day by telephone;~~

~~—— 6. Counselors to assess and treat adult alcohol and/or other drug dependent clients and obtain and interpret information regarding the needs of these clients. Such counselors shall be knowledgeable of the biological and psychological dimensions of alcohol and/or other drug dependence;~~

~~—— 7. Counselors to provide planned regimen of 24 hour professionally directed evaluation, care and treatment services for addicted persons and their families to include individual, group, and/or family counseling directed toward specific client goals indicated in his/her ITP;~~

~~—— 8. Health education services;~~

~~—— 9. Educational guidance and educational program referral when indicated;~~

~~—— 10. Vocational counseling for any client when indicated. For those not employed, staff/volunteers shall facilitate the client's pursuit of job placement, as appropriate;~~

~~—— 11. Work activity participation by clients provided such activities are an integral part of the rehabilitative process, clients are made aware of the necessity of their participation in such activities, and such activities are not a substitute for staff;~~

~~—— 12. Leisure time activities, including recreational activities;~~

~~—— 13. Planned clinical program activities designed to enhance the client's understanding of addiction;~~

~~—— 14. Multi-disciplinary individualized assessments and treatment are provided;~~

~~—— 15. Family and significant other services;~~

~~—— 16. Living skills training, as needed.~~

## **2602. Staffing**

~~— A. A staff member/volunteer/designated client shall be present and in charge at all times during daytime hours when clients are present in the facility. A staff member/volunteer/designated client in charge shall know how to respond to client needs and emergencies. (I)~~

~~— B. Number of staff that shall be maintained in all facilities:~~

~~—— 1. In each building, there shall be at least one staff member/volunteer/designated client on duty for each 10 clients or fraction thereof present during peak activity hours. (II)~~

~~—— 2. Required nighttime (after the evening meal) staffing shall be provided by a staff member, volunteer, or a designated client:~~

~~—— a. In each building, there shall be at least one staff member/volunteer/designated client on duty for each 20 clients or fraction thereof.~~

~~—— b. In buildings housing more than 10 clients, a staff member/volunteers/designated client shall be awake and dressed.~~

~~—— 3. If a Client serves as staff, the facility shall ensure that the following conditions are met: (II)~~

~~—— a. Client is approved by the administrator, in writing, to perform the duties required of a staff member during these particular hours, and s/he agrees in writing to perform them;~~

~~—— b. Client understands and enforces applicable regulatory requirements;~~

~~—— c. Client is trained and able to respond to emergencies;~~

~~—— d. Client is able to communicate with an on-call staff member;~~

~~—— e. Client is properly oriented to written applicable policies and/or procedures, to include the inservice training requirements in Section 502.~~

~~—— f. The condition of any other clients of the facility may preclude permitting a client to serve in a designated staff role.~~

### **~~2603. Admission (II)~~**

~~— Persons not eligible for admission are:~~

~~—— A. Any person who because of acute mental illness or intoxication presents an immediate threat of harm to him/herself and/or others;~~

~~—— B. Any minor as defined in Section 101.MM. See Section 804 for exceptions for minors;~~

~~—— C. Any person needing detoxification services, hospitalization, or nursing home care.~~

### **~~2604. Assessment (II)~~**

~~— A complete written assessment of the client in accordance with Section 101.H by a multi-disciplinary treatment team shall be conducted within a time period determined by the facility, but no later than 72 hours after admission.~~

### **~~2605. Individualized Treatment Plan (II)~~**

~~—An ITP in accordance with Section 701.D shall be completed of the client by a multi-disciplinary treatment team within a time period determined by the facility, but no later than seven days after admission.~~

#### **2606. Facilities For Mothers With Children (II)**

~~—The health needs/care of the child shall be provided in the following manner:~~

~~—A. Mothers shall provide or arrange for the health needs/care of their children.~~

~~—B. Children shall be in the mother's care or in a child care program approved by DSS.~~

~~—C. Arrangements for emergency care for the children shall be provided.~~

### **PART IV DETOXIFICATION FACILITIES**

#### **SECTION 2700**

##### **PROGRAM DESCRIPTION.**

#### **2701. Freestanding Medical Detoxification Facility**

~~—Medical detoxification facilities shall provide at a minimum the following treatment and support services:  
(II)~~

~~—A. Intake medical examination and screening by a physician or other authorized healthcare provider to determine need for medical services or referral for serious medical complications;~~

~~—B. Continuing observation of each client's condition to recognize and evaluate significant signs and symptoms of medical distress and take appropriate action. Each client's general condition shall be monitored and his/her vital signs taken at a frequency as determined by the facility, but not less than three times during the first 72 hours of admission to the facility. As an alternative, freestanding medical detoxification facilities shall provide continuing observation of each client's condition to recognize and evaluate significant signs and symptoms of medical distress and take appropriate action. This shall include the use of an emergency medication kit or cart as appropriate provided the following conditions are met:~~

~~—1. Each facility shall have a nondispensing drug outlet permit issued by the SC Board of Pharmacy;~~

~~—2. Each facility shall maintain, upon the advice and written approval of the Department's Bureau of Drug Control, the facility Medical Director, and consultant pharmacist, an emergency medication kit or Cart containing controlled substances that address medical distress and withdrawal symptoms at each client care station for the use of physicians or other legally authorized healthcare providers in treating the emergency needs of clients.~~

~~—3. The emergency medication kit or cart shall be sealed and stored in a secured area in such a manner as to prevent unauthorized access and to ensure a proper environment for preservation of the medications within, but in such a manner as to allow immediate access.~~

~~—4. Whenever the emergency medication kit or cart is opened, the use of contents shall be documented by the facility staff and it shall be restocked and resealed by a pharmacist within 48 or the end of the next business day, whichever is longer.~~

~~— 5. Medications used from the emergency medication kit or cart shall be replaced according to facility policy.~~

~~— 6. The contents of the emergency medication kit or cart shall be listed and maintained on the exterior of the emergency medication kit or cart, and shall correspond to the list. A copy of the inventory list shall be maintained at the client care station for quick reference.~~

~~— 7. The facility may determine that one emergency medication kit can be readily accessible to, and adequately meet the needs of two or more client care stations. If such is the case, the facility written policies shall include the location(s) of the emergency medication kit(s) and the justification for this determination. There shall not be less than one emergency medication kit on each client floor.~~

~~— 8. At least monthly the licensed nurse shall examine the emergency medication kit(s) and controlled medication records and certify to the administrator that this inventory is correct;~~

~~— C. Medication as appropriate to assist in the withdrawal process;~~

~~— D. A plan for supervised withdrawal, to be implemented upon admission;~~

~~— E. Room, dietary service, and other care and supervision necessary for the health and safety of the client;~~

~~— F. Counseling designed to motivate clients to continue in the treatment process and referral to the appropriate treatment modality.~~

#### **2702. Social Detoxification Facility**

~~— Social detoxification facilities shall provide, at a minimum, the following services:~~

~~— A. Screening and intake provided by staff/volunteers specially trained to monitor the client's physical condition;~~

~~— B. Development of an ITP for supervised withdrawal;~~

~~— C. Continuing observation of each client's condition to recognize and evaluate significant signs and symptoms of medical distress and take appropriate action;~~

~~— D. Room, dietary service, and other care and supervision necessary for the maintenance of the client;~~

~~— E. Counseling designed to motivate clients to continue in the treatment process.~~

#### **2703. Staffing**

~~— A. A staff member/volunteer shall be present and in charge at all times. All staff members/volunteers shall be knowledgeable as to how to respond to emergencies. (I)~~

~~— B. The staffing arrangement shall be, at a minimum, the following:~~

~~— 1. In each building, there shall be at least one direct care/counselor staff member for each 10 clients or fraction thereof on duty at all times. Staff members/volunteers shall be awake and dressed at all times, able to appropriately respond to client needs, and know how to respond to emergencies. (II)~~

~~— 2. In medical detoxification facilities only, staff/volunteers shall be under the general supervision of a physician or registered nurse; a physician, licensed nurse, or other authorized medical healthcare provider shall be present at all times. (I)~~

~~— 3. In social detoxification centers, there shall be consultation with medical authorities when warranted.~~

#### **2704. Admission**

~~— A. Appropriate admission to a detoxification facility shall be determined by a licensed or certified counselor and subsequently shall be authorized by a physician or other authorized healthcare provider in accordance with Section 1001.A.~~

~~— B. Persons not eligible for admission are:~~

~~— 1. Any person who, because of acute mental illness or intoxication, presents an immediate threat of harm to him/herself and others. (I)~~

~~— 2. Any person needing hospitalization, Residential treatment program care, or nursing home care. (I)~~

~~— 3. Any person under 18 years of age. See Section 804 for exceptions for minors. (II)~~

~~— 4. Anyone not meeting facility requirements for admission.~~

~~— C. Determination of the type of detoxification needed shall be guided by the definitions outlined in Sections 101.S.1 and 101.S.2.~~

#### **2705. Assessment (II)**

~~— A clinical screening that includes a review of the client's drug abuse/usage and treatment history shall be conducted prior to the delivery of treatment.~~

#### **2706. Individualized Treatment Plan (II)**

~~— An ITP shall be completed for supervised withdrawal within a time period determined by the facility.~~

### **PART V NARCOTIC TREATMENT PROGRAMS**

#### **SECTION 2800**

#### **PROGRAM DESCRIPTION.**

#### **2801. General**

~~— A. Narcotic treatment programs (NTP) provide medications for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group. Opioid maintenance therapy (OMT) is term that encompasses a variety of pharmacologic and non-pharmacologic treatment modalities, including the therapeutic use of specialized opioid compounds such as methadone and levo alpha-acetylmethadol (LAAM) to psycho-pharmacologically occupy opiate receptors in the brain, extinguish drug craving, and thus establish a maintenance state. OMT is a separate service that can be provided in any level~~

of care, as determined by the client's needs. Adjunctive non-pharmacologic interventions are essential and may be provided in OMT or through coordination with another addiction treatment provider.

— B. An NTP has the following characteristics:

—— 1. Support systems:

———— a. Linkage with or access to psychological, medical, and psychiatric consultation;

———— b. Linkage with or access to emergency medical and psychiatric affiliations with more intensive levels of care, as needed;

———— c. Linkage with or access to evaluation and ongoing primary medical care;

———— d. Ability to conduct or arrange for appropriate laboratory and toxicology tests;

———— e. Availability of physician to evaluate, prescribe, and monitor use of NTP medication, and of nurses and pharmacists to dispense and administer NTP medication.

—— 2. Staff:

———— a. An interdisciplinary team of appropriately trained and certified or licensed addiction professionals, including a medical director, counselors, and the medical staff delineated below;

———— b. Licensed medical, nursing, or pharmacy staff who are available to administer medications in accordance with the physician's prescription or orders. The intensity of nursing care is appropriate to the services provided by an outpatient treatment program that uses NTP medication;

———— c. A physician, available either in person or by telephone during NTP medication dispensing and clinic operating hours.

—— 3. Therapies:

———— a. Interdisciplinary individualized assessment and treatment;

———— b. Assessing, prescribing, administering, reassessing and regulating dose levels appropriate to the individual; supervising detoxification from opiates, methadone or LAAM; overseeing and facilitating access to appropriate treatment, including medication for other physical and mental health disorders;

———— c. Monitored urine testing;

———— d. Counseling services;

———— e. Case management;

———— f. Psycho-education, including HIV/AIDS and other health education services.

## **2802. Services (II)**

— A. Services shall be directed toward reducing or eliminating the use of illicit drugs, criminal activity, or the spread of infectious disease while improving the quality of life and functioning of the client. NTP shall

~~follow rehabilitation stages in sufficient duration to meet the needs of the client. These stages include initial treatment up to seven days in duration, early stabilization lasting up to eight weeks, long term treatment, medical maintenance, and immediate emergency treatment when needed.~~

~~—B. The NTP shall directly provide, contract or make referrals, for other services based upon the needs of the client.~~

~~—C. As part of drug rehabilitative services provided by the NTP, each client shall be provided with individual, group and family counseling appropriate to his/her needs. The frequency and duration of counseling provided to client shall be determined by the needs of the client and be consistent with the ITP. Counseling shall address, as a minimum:~~

~~——1. Treatment and recovery objectives included in the ITP as well as education regarding HIV and other infectious diseases. HIV testing shall be made available as appropriate, while maintaining client confidentiality. Staff shall be knowledgeable of current procedures regarding the prevention and treatment of client with HIV and sexually transmitted diseases (STD) to include testing and interpretation of test results;~~

~~——2. Concurrent alcohol and drug abuse;~~

~~——3. Involvement of family and significant others with the informed consent of the client;~~

~~——4. Providing specialized treatment groups;~~

~~——5. Guidance in seeking alternative therapies.~~

### **2803. Support Services**

~~—A. The NTP shall ensure that a comprehensive range of support services, including, but not limited to, vocational, educational, employment, legal, mental health and family problems, medical, alcohol dependence or other addictions, HIV or other communicable diseases, pregnancy and prenatal care, and social services are made available to client who demonstrate a need for such services. Support services may be provided either directly or by appropriate referral. Support services recommended and utilized shall be documented in the client record.~~

~~—B. When appropriate, the NTP shall recommend that the client enroll in an education program, vocational activity (vocational evaluation, education or skill training) and/or to seek employment. Deviations from compliance with these recommendations shall be documented in the client's record.~~

~~—C. The NTP shall establish and utilize linkages with community-based treatment facilities, i.e., an established set of procedures for referring client to physician or other health care providers when the treatment of coexisting disorders become a major concern.~~

~~—D. The NTP shall establish linkages with the criminal justice system to encourage continuous treatment of individuals incarcerated or on probation and parole.~~

### **2804. Services to Pregnant Clients (II)**

~~—A. The facility shall make reasonable effort to ensure that pregnant clients receive pre-natal care by a physician and that the physician is notified of the client's participation in the NTP when the facility becomes aware of the pregnancy.~~

~~—B. The NTP shall provide, through in-house or referral and documented in the ITP, appropriate services/interventions for the pregnant client to include:~~

~~—— 1. Physician consultation at least monthly;~~

~~—— 2. Nutrition counseling;~~

~~—— 3. Parenting training to include newborn care, health and safety, mother/infant interaction, and bonding.~~

~~—C. Refusal of prenatal care shall be acknowledged through a signed statement from the client.~~

~~—D. NTP medication dosage levels shall be maintained at an appropriate level for pregnant clients as determined by the NTP physician. (I)~~

~~—E. When a pregnant client chooses to discontinue participation in the NTP, the program physician, in coordination with the attending obstetrician, shall supervise the termination process.~~

#### **~~2805. Services to Adolescents (II)~~**

~~—A. Treatment and counseling shall be developmentally appropriate for the adolescent.~~

~~—B. Adolescents who require special medical care shall be referred to a physician who has clinical experience with adolescents and addictions. Adolescents shall be monitored for treatment reactions that may be developmentally detrimental. A plan shall be in place in the event that special medical care is required.~~

#### **~~2806. Operating Hours~~**

~~—The NTP shall be operational at least six days a week, except for holidays and days closed due to natural disaster. At least one designated staff member/volunteer shall be available “on call” at all times for client emergencies and the verification of dosage levels.~~

#### **~~2807. Admission (II)~~**

~~—A. The NTP shall only admit those clients whose narcotic dependency can be effectively treated by the NTP in accordance with applicable state and federal laws and regulations.~~

~~—B. Applicants shall be screened in order to determine admission eligibility. The screening process shall include:~~

~~—— 1. Evidence of tolerance to an opioid;~~

~~—— 2. Current or past physiological dependence for at least one year prior to admission. The NTP physician may waive the one-year history of addiction when the client seeking admission meets one of the following criteria:~~

~~—— a. The client has been recently released from a penal or chronic care facility with a high risk of relapse;~~



- ~~—— b. The client has been previously treated and is at risk of relapse;~~
- ~~—— c. The client is pregnant and does not exhibit objective signs of opioid withdrawal or physiological dependence.~~
- ~~—— 3. Evidence of multiple and daily self administration of an opioid;~~
- ~~—— 4. Reasonable attempts to confirm that the applicant is not enrolled in one or more other NTPs;~~
- ~~—— 5. Drug history to determine dependence on opium, morphine, heroin or any derivative or synthetic drug of that group. The drug history shall include:~~
  - ~~—— a. Drug(s) utilized;~~
  - ~~—— b. Frequency of use;~~
  - ~~—— c. Amount utilized;~~
  - ~~—— d. Duration of use;~~
  - ~~—— e. Age when first utilized;~~
  - ~~—— f. Route of administration;~~
  - ~~—— g. Previous treatment(s);~~
  - ~~—— h. Criminal history related to drug abuse;~~
  - ~~—— i. Family history of drug abuse and any medical problems.~~
- ~~—— 6. A diagnosis of opioid addiction, referring to the initial screening criteria in Sections 3207.B.1-5 above, and the following behavioral signs:~~
  - ~~—— a. Unsuccessful efforts to control use;~~
  - ~~—— b. Large amounts of time obtaining drugs or recovering from the effects of abuse;~~
  - ~~—— c. Continual use despite harmful consequences;~~
  - ~~—— d. Obtaining opiates illegally;~~
  - ~~—— e. Inappropriate use of prescribed opiates;~~
  - ~~—— f. Harmful/negative effect on social, occupational or recreational activities.~~
- ~~—— C. Individuals shall not be admitted to the NTP to receive opioids for pain management only.~~
- ~~—— 1. The NTP shall make the diagnostic distinctions between the disease of opioid addiction and the physical dependence associated with the chronic administration of opioids for the relief of pain, also known as pseudo addiction. The drug seeking manifestations of persons who are opioid addicted for purpose of euphoria are very similar to the same behavioral manifestations of pseudo addiction of those with chronic~~

~~pain seeking only pain relief. Relevant criteria to distinguish pseudo-addiction from opioid addiction include:~~

- ~~—— a. Unsuccessful efforts to control use, including past failed detoxification efforts;~~
- ~~—— b. Large amounts of time spent in activities to obtain drugs, including past criminal involvements;~~
- ~~—— c. Written documentation from a pain management physician attesting to the client need for NTP medication due to the client's physical dependence, resultant tolerance, and that physician's discontinuance of effective opioid pain relief measures with the client.~~
- ~~—— d. Continued use, despite having suffered lifestyle consequences of illicit use, e.g., arrests, hospitalizations, family problems, financial setbacks, and employment difficulties.~~
- ~~—— 2. Appropriate referrals by the NTP physician shall be made as necessary, e.g., pain management specialist.~~
- ~~—— D. Minors may be treated pursuant to Section 804.~~
- ~~—— E. Prior to accepting an applicant for treatment, the NTP shall determine if the applicant requires special support services, e.g., psychiatric, prenatal, or alcohol/drug counseling.~~
- ~~—— F. The applicant's identity, including name, address, date of birth, and other identifying data shall be verified (See Section 701.A);~~
- ~~—— G. No client shall receive his/her initial dose of NTP medication until the program physician has determined that all admission criteria have been met, to include a completed physical examination by the program physician and confirmation of current medication regimen being taken by the applicant, i.e., contact attending physician.~~

## **2808. Physical Examination (II)**

- ~~—— A. A physical examination conducted by the NTP physician shall be accomplished within 72 hours prior to the first dose of NTP medication and shall consist of the following as a minimum: (I)~~
- ~~—— 1. Evidence of communicable/infectious disease, e.g., hepatitis, HIV, STD;~~
- ~~—— 2. Pulmonary, liver, renal, and cardiac abnormalities;~~
- ~~—— 3. Possible concurrent surgical problems;~~
- ~~—— 4. Neurological assessment;~~
- ~~—— 5. Vital signs;~~
- ~~—— 6. Evidence of clinical signs of addiction, e.g., dermatologic sequella of addiction;~~
- ~~—— 7. Examination of head, ears, eyes, nose, throat (thyroid), chest (including heart, lungs and breast), abdomen, extremities, and skin.~~

~~— 8. A single step tuberculin skin test administered within one month prior to or not later than 10 days after admission as described in Section 1404.~~

~~— B. The medical laboratory analysis shall be conducted within seven days of admission and shall include:~~

~~— 1. Complete blood count and differential to include multi-phasic blood chemistry profile;~~

~~— 2. Serological test for syphilis;~~

~~— 3. Initial urinalysis for drug profile;~~

~~— 4. Liver profile;~~

~~— 5. If indicated, an electrocardiogram, chest x ray, Pap smear, biological pregnancy test, and/or screening for sickle cell disease.~~

### **2809. Urine Drug Testing (II)**

~~— A. Urine drug testing shall be used as a clinical tool for the purposes of diagnosis and in the development of ITP's.~~

~~— B. Urine drug testing for the presence of NTP medication, benzodiazepines, cocaine, opiates, marijuana, amphetamines, and barbiturates, as well as other drugs, when clinically indicated by the NTP physician, shall be conducted at a frequency as determined by the NTP.~~

~~— C. Once the results are available, they shall be addressed by the primary counselor with the client, in order to intervene in drug use behavior.~~

~~— D. The NTP shall establish and implement collection procedures, including random collection of urine samples, to effectively minimize the possibility of falsification of the sample, to include security measures for prevention of tampering.~~

~~— E. Following admission, the NTP shall ensure that significant treatment decisions are not based solely on the results of a single urine test.~~

~~— F. Clients on a monthly schedule for whom urine drug testing reports indicate positive results for any illicit drugs, non-prescription drugs, or a negative result for NTP medication, shall be placed on a weekly urine drug test schedule for a period of time as clinically indicated by the NTP physician.~~

~~— G. Each client granted take home dosages shall undergo random urine drug testing on a monthly basis or at a frequency clinically indicated by the NTP physician.~~

~~— H. Only those laboratories certified in accordance with the federal Clinical Laboratories Improvement Amendments shall be utilized by the NTP for urinalysis.~~

### **2810. Orientation**

~~— client orientation shall be accomplished within seven days of admission and documented in the client record. The orientation shall include:~~

~~— A. NTP guidelines, rules, and regulations;~~

- ~~— B. Confidentiality;~~
- ~~— C. Urine drug testing procedure;~~
- ~~— D. Administering NTP medication;~~
- ~~— E. Signs and symptoms of overdose and when to seek emergency assistance;~~
- ~~— F. Discharge procedures;~~
- ~~— G. Treatment phases;~~
- ~~— H. HIV/AIDS information/education;~~
- ~~— I. Client rights (See Section 900);~~
- ~~— J. Consent for autopsy;~~
- ~~— K. The nature of addictive disorders and recovery including misunderstandings regarding methadone/LAAM treatment;~~
- ~~— L. For pregnant clients, risk to the unborn child.~~

#### **~~2811. Psycho-social Assessment (II)~~**

~~— A comprehensive psycho-social assessment shall be completed by the client's primary counselor once the client is stabilized but not later than 30 days following admission. The assessment shall include:~~

- ~~— A. A description of the historical course of the addiction to include drugs of abuse such as alcohol and tobacco, amount, frequency of use, duration, potency, and method of administration, previous detoxification from NTP medication and/or treatment attempts, and any psychological or social complication.~~
- ~~— B. A health history regarding chronic or acute medical conditions, such as HIV, STD's, hepatitis (B, C, Delta), TB, diabetes, anemia, sickle cell trait, pregnancy, chronic pulmonary diseases, and renal diseases.~~
- ~~— C. Complete information related to the family of the client.~~

#### **~~2812. Individualized Treatment Plan (II)~~**

~~— A. An ITP shall be developed within 30 days of admission with participation by the client and the primary counselor, as evidenced by their signatures. The ITP content shall be in accordance with Section 701.D.~~

~~— B. Client progress in treatment and accomplishment of ITP goals shall be reviewed by the primary counselor not less than every 90 days during the first year of treatment and every six months thereafter. The counselor shall sign and date these reviews.~~

#### **~~2813. Emergency Medical Procedures (I)~~**

~~— Emergency medical procedures shall include, but not be limited to:~~

~~—A. Client overdose or severe drug reaction;~~

~~—B. Names and telephone numbers of individuals (e.g. physician, hospitals, EMT's) to be contacted in case of an emergency. These names and numbers shall be readily available within the facility;~~

~~—C. Emergency dosing of NTP medications.~~

#### **2814. Adverse Events**

~~—A. The NTP shall establish written procedures which address resolutions to adverse events such as:~~

~~—1. Physical and verbal threats;~~

~~—2. Violence;~~

~~—3. Inappropriate behavior;~~

~~—4. Medication errors;~~

~~—5. Deaths;~~

~~—6. Selling drugs on the premises;~~

~~—7. Harassment and abuse.~~

~~—B. Procedures to implement should adverse events occur shall include:~~

~~—1. Documentation of the event and reporting as required to the Department (see Section 601);~~

~~—2. Prompt review and investigation;~~

~~—3. Timely and appropriate corrective action;~~

~~—4. Monitoring to determine corrective action plan effectiveness.~~

#### **2815. Readmission**

~~—If a client is readmitted to the same NTP, a physical examination will be required by the current NTP physician within 72 hours of admission.~~

#### **2816. Staffing (II)**

~~—A. The NTP physician shall have authority over all medical aspects of care and make treatment decisions in consultation with treatment staff consistent with the needs of the client, clinical protocols, and research findings. At least one physician shall be available during dosing and facility operating hours either in person or by telephone for consultation and for emergencies.~~

~~—B. A pharmacist or other person licensed to dispense NTP medications pursuant to the SC Code of Laws is responsible for dispensing the amounts of NTP medications administered, and shall record and countersign all changes in dosing schedules.~~

~~—C. The nursing staff shall include one licensed nurse. The total number of nurses on the staff shall be commensurate with NTP operating hours and the number of clients to be served in order to ensure that adequate nursing care will be provided at all times the facility is in operation. A licensed nurse shall be present at all times clients are in the facility.~~

~~—D. There shall be an adequate number of qualified counselors on staff to ensure that necessary, appropriate and quality counseling and other rehabilitative services are provided in a timely manner. The NTP shall have a least one full-time counselor on staff for every 50 clients or fraction thereof. Counselors shall be qualified as specified in Section 504.~~

~~—E. All direct care staff shall have training and experience in addictions and NTP medication treatment.~~

### **2817. NTP Medication Management (I)**

~~—A. A physician, licensed nurse, or registered pharmacist may administer NTP medication.~~

~~—B. The NTP physician shall determine the initial and subsequent dosage and schedule, and prescribe such dose and schedule to include changes by verbal or written order to the pharmacist and licensed nurse. However, the verbal order shall be documented, signed, and dated by the NTP physician within 72 hours.~~

~~—C. The procedure for administering NTP medication shall be as follows:~~

~~——1. NTP medication, including guest and take home doses, shall be administered to clients in oral liquid form and in single doses. Take home bottles shall be labeled in accordance with federal and state law and regulations and shall contain necessary cautionary statements; caps shall be childproof.~~

~~——2. No dose shall be administered until the client identity has been verified and the dosage compared with the currently ordered and documented dosage level.~~

~~——3. The initial dose of methadone shall not exceed 30 mg. and the initial total daily dose for the first day shall not exceed 40 mg. unless the NTP physician justifies in the client record that 40 mg. did not suppress the abstinence symptoms after three hours of observation following the initial dose.~~

~~——4. Ingestion shall be observed and verified by the person authorized to administer the medication.~~

~~——5. A client's scheduled dose may be temporarily delayed if necessary, e.g., to obtain a urine sample or for counselor consultation. The dose shall not be withheld, however, for failure to comply with the NTP rules or procedures unless the decision is made to terminate the client's participation in the NTP. A dose may be withheld only when the NTP physician determines that such action is medically indicated.~~

~~——6. There shall be written justification in the client record signed and dated by the NTP physician for doses in excess of 100 mg. of methadone per day after the first day.~~

~~—D. A client transferring from another NTP facility shall have a physical examination and have his/her dose determined by a physician prior to receiving the first dosage.~~

~~—E. When the NTP physician prescribes controlled substances other than NTP medications, such prescriptions shall not be administered to any client unless the NTP physician first examines the client and assesses his/her potential for abuse of such medications.~~

## **~~2818. Take-home Medication (II)~~**

~~—A. Take home NTP medication may be given to clients who demonstrate a need for a more flexible schedule in order to enhance and continue the rehabilitative process. However, since NTP medication is a narcotic subject to abuse if not managed properly, precautions shall be taken to prevent its potential abuse. The NTP physician shall ensure that take home medication is given to those clients who meet the following criteria for eligibility:~~

- ~~——1. Adherence to NTP rules, regulations, and policies;~~
- ~~——2. Length of time in the NTP and level of maintenance treatment;~~
- ~~——3. Presence of NTP medication in urine samples;~~
- ~~——4. Potential complications from concurrent health problems;~~
- ~~——5. Lengthy travel distance to the facility;~~
- ~~——6. Progress in maintaining a stable lifestyle as evidenced by:~~
  - ~~——a. Absence of abuse of narcotic and non-narcotic drugs;~~
  - ~~——b. Absence of alcohol abuse, or determination that the client is no longer abusing alcohol and is in treatment for the alcohol abuse problem;~~
  - ~~——c. Regularity of attendance at the NTP, to include required counseling sessions;~~
  - ~~——d. Absence of serious behavior problems, including loitering at the NTP;~~
  - ~~——e. Absence of known recent criminal activity;~~
  - ~~——f. Employment, school attendance, or other appropriate activity;~~
  - ~~——g. Assurance that take home medication can be securely transported and stored by the client for his/her use only.~~

~~—B. The decision to provide take home medication to NTP client and the amount provided shall be based upon and determined by the reasonable clinical judgement of the NTP physician and appropriately documented and recorded in the client's file prior to the initiation of the take home dose. The NTP physician shall document compliance by the client with each and every one of the aforementioned requirements prior to providing the first take home dose. (I)~~

~~—C. The client's take home status shall be reviewed and documented at least on a quarterly basis by the primary counselor.~~

~~—D. If a client, due to special circumstances, such as illness, personal or family crisis, travel, or other hardship, is unable to conform to the applicable treatment schedule, s/he may be permitted to receive up to a two week supply of NTP medication, based on the clinical judgment of the NTP physician. The justification for permitting the adjusted schedule shall be recorded in the client's record by the NTP physician.~~

~~—E. One time or temporary (usually not to exceed three days) take home medication shall be approved by the facility for family or medical emergencies or other exceptional circumstances.~~

~~—F. A client transferring from another NTP or readmitted after having left the NTP voluntarily and who has complied with facility rules and program policies/procedures may be granted an initial take home schedule that is no greater than that allowed at the time of transfer or voluntary discharge provided all criteria other than length of treatment are met.~~

~~—G. A client discharged from another NTP shall only be initially granted take home privileges from the new admitting NTP provided the requirements of Section 2818.A are met.~~

~~—H. Take home medication shall be labeled with the name of the NTP, address, telephone number, and packaged in conformance with state and federal regulations.~~

~~—I. A diversion control plan shall be established to assure quality care while preventing the diversion of NTP medication from treatment to illicit use. The plan shall include:~~

~~——1. Clinical and administrative continuous monitoring;~~

~~——2. Problem identification, correction and prevention;~~

~~——3. Accountability to the client and community;~~

~~——4. NTP medication usage and amount accountability.~~

#### **2819. Guest Dosing (H)**

~~—A. When a client is separated from his/her NTP for an extended period, and the client is in the vicinity of a SC licensed NTP, guest dosing may occur provided there is: (I)~~

~~——1. Authorization in writing from the sending NTP physician;~~

~~——2. Information from the sending NTP to include at least the following: client name, identifying information, means of identity verification, dates of guest dosing, amount of each day's dose, number of take home doses (if any), urinalysis history, and any other information requested by the authorizing treatment NTP.~~

~~—B. Records of guest dosing shall be maintained at the NTP providing the guest dosing.~~

~~—C. Guest dose status for a client shall not exceed 28 days unless there are special circumstances, and an extension of time is agreed upon by the two NTP's involved.~~

#### **2820. Security of Medications (I)**

~~—A. The areas where NTP medication stocks are maintained or administered shall be secured. Access to controlled substances, which include NTP medication, shall be limited to persons licensed or registered to order, administer, or dispense those medications.~~

~~—B. Immediately after administering, the remaining contents of the containers shall be purged (rinsed) to prevent the accumulation of residual NTP medication. The NTP shall ensure that take home medication~~



~~bottles are returned to the NTP. All used containers as well as take home bottles given to clients shall be made inaccessible to unauthorized individuals. Used containers shall be disposed of by the NTP.~~

#### **2821. Outcome Effectiveness**

- ~~— NTP outcome effectiveness measures shall include:~~
- ~~— A. Improved client functioning, such as reducing or eliminating:~~
  - ~~—— 1. Abuse of licit and illicit drugs;~~
  - ~~—— 2. Criminal behavior;~~
  - ~~—— 3. Behaviors related to the spread of infectious diseases.~~
- ~~— B. Improved quality of life.~~

#### **2822. Detoxification from NTP Medication (II)**

- ~~— Detoxification from NTP medication shall be initiated only when strongly desired by the client, and shall include:~~
- ~~—— A. A schedule of dosage reduction from NTP medication that the client can tolerate;~~
- ~~—— B. Close documented monitoring of client Patient clinical condition which may affect the detoxification process, i.e., symptoms of medial and emotional distress;~~
- ~~—— C. A review of the results of a recent pregnancy test;~~
- ~~—— D. A review of changes in counseling sessions and other support services during detoxification from NTP medication;~~
- ~~—— E. Providing continuing care after detoxification of NTP medication is completed.~~

#### **2823. Community Liaison**

- ~~— The NTP shall assure that clients do not cause unnecessary disruption to the community, e.g., loitering in the vicinity of the NTP, or disorderly conduct.~~

## **ATTACHMENT B**

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

#### **CHAPTER 61**

Statutory Authority: 1976 Code Section 44-7-260

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

The Department of Health and Environmental Control (“Department”) proposes amending R.61-93, Standards for Licensing Facilities That Treat Individuals for Psychoactive Substance Abuse or Dependence. Interested persons may submit comment(s) on these proposed amendments to the Bureau of Health Facilities Licensing; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on April 22, 2019, the close of the draft comment period.

#### **Synopsis:**

R.61-93 has not been substantively updated since 2015. The Department proposes amending R.61-93 to update and revise definitions and requirements regarding obtaining licensure, inspections and violations, personnel and in-service training, accident and incident reporting, client records and care, infection control, meal service, record maintenance and retention, fire and life safety, construction design, and licensure standards throughout. The Department also intends to add language to incorporate current provider-wide exceptions and memoranda applicable to facilities that treat individuals for psychoactive substance abuse or dependence. The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, codification, and 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.

## ATTACHMENT C

### SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

#### R.61-93, Standards for Licensing Facilities That Treat Individuals for Psychoactive Substance Abuse or Dependence

As of the April 22, 2019, close of the Notice of Drafting Comment period:

NAME	SECTION	PUBLIC COMMENT	DEPARTMENT RESPONSE
1. Lee Dutton, Chief of Staff, DAODAS	General	Throughout the regulation, change “Detoxification” to “Withdrawal Management.”	Adopted. 101.II, 101.WW 101.BBB, 101.HHH
2. Lee Dutton, Chief of Staff, DAODAS	General	Throughout the regulation, change “Narcotic Treatment Program (NTP)” to “Opioid Treatment Program (OTP).”	Adopted. 101.OO
3. Christine Martin, Chairperson, SCATOD	General	<p>SCATOD recommends that DHEC develop language into Part V of the regulations to define and provide guidance to OTPs on the use of “Medication Units.” Medication units are a useful model to increase access to opioid treatment services in rural areas that cannot support a full OTP. Medication Units are defined by 42 CFR § 8.2 as:</p> <p>“Medication unit means a facility established as part of, but geographically separate from, an opioid treatment program from which licensed private practitioners or community pharmacists dispense or administer</p>	Not adopted. Current language as it stands is more commonly used. Changing the language to “Medication Units” might be unnecessarily confusing.

		<p>an opioid agonist treatment medication or collect samples for drug testing or analysis.”</p> <p>Additional information on Medication Units can be found in the following link to a SAMHSA webinar series on Providing MAT through Medication Units:  <a href="https://www.samhsa.gov/medication-assisted-treatment/training-resources/webinars-workshops-summits">https://www.samhsa.gov/medication-assisted-treatment/training-resources/webinars-workshops-summits</a></p>	
4. Laura Aldinger, BHSA of SC, Inc.	General	Replace all Substance Use or Dependence language with "Substance Use Disorders" in accordance with updated recovery language.	Adopted. 101.V, 101.FF 101.HH, 101.DDD
5. Courtney S. Bowman, Program Director/ Director of Nursing, Crossroads Treatment Centers	General	I would like to see that any new education requirements for the new DHEC Regulatory Standards for existing employees be Godfathered in, allowed the time to finish their education or allow the employer to file an exception to allow for their continued employment position.	Adopted.
6. Lee Dutton, Chief of Staff, DAODAS	101.FF	<del>Individualized Treatment Plan (ITP)</del> <u>Individual Plan of Care (IPOC)</u> (updated throughout regulation)	Adopted. 101.Y
7. Lee Dutton, Chief of Staff, DAODAS	101.HH	Suggest removing this definition.	Adopted.
8. Lee Dutton, Chief of Staff, DAODAS	101.OO	... outpatient psychoactive substance	Adopted. 903.C.4

		abuse/dependence program using <del>methadone or other narcotic treatment medication</del> such as <u>LAAM, FDA approved medications</u> and offering...	
9. Laura Aldinger, BHSA of SC, Inc.	101.YY	Replace chemical with substance.	Adopted.
10. Mike Dennis, Executive Dir., Tri-County Commission on Alcohol and Drug Abuse	101.ZZ	Might I propose the following: "Facility that Treats Individuals with Substance Use Disorders". Not everyone who receives services is addicted/chemically dependent.	Adopted to add "Substance Use Disorder Facility" as an alternative reference to the statutory "Facility for Chemically Dependent or Addicted Persons."
11. Lee Dutton, Chief of Staff, DAODAS	101.III	Suggested definition to be added: <u>III. Substance Use Disorder. A cluster of cognitive, behavioral and physiological symptoms indicated that the individual continues using the substance despite significant substance-related problems</u>	Adopted in a Modified State. 101.DDD
12. Laura Aldinger, BHSA of SC, Inc.	103.F	Change "are chemically dependent" to "have substance use disorders."	Adopted. 102.F
13. Tricia Hackett, The Phoenix Center/DAODAS	202	Inspections/Investigations - C. DAODAS regulated agencies, such as The Phoenix Center, are required to abide by the federal confidentiality law 42 C.F.R part 2 specifically related to drug and alcohol abuse patient records. DHEC investigators need to be willing to agree in writing that they will (1) maintain the patient	Not Adopted. DHEC follows its own retention schedule and ensures privacy.

		identifying information in accordance with the security requirements provided in 42 C.F.R part 2, (2) Destroy all the patient identifying information upon completion of the investigation; and (3) comply with the limitations on re-disclosure, when records containing patient identifying information are copied and removed from program premises. An EXCEPTION should be added to the DHEC manual for those agencies that fall under 42 C.F.R. part 2.	
14. Lee Dutton, Chief of Staff, DAODAS	502.A	A. In all facilities, the following training shall be provided to all staff/volunteers, <del>and those clients in Residential treatment program facilities who may be utilized to supplement staffing,</del> within one month of hiring and at least annually.	Adopted in a modified state. 506.B
15. Lee Dutton, Chief of Staff, DAODAS	504	A.Each facility shall have at least one staff counselor who is fully-certified or licensed. All non-certified/licensed counselors shall be under the direct supervision (on-site) of a fully-certified/licensed counselor. Staff/volunteers shall be considered qualified to provide clinical counseling services	Adopted. 508.A

		<p>only by one of the following:</p> <p>1.For direct client services:</p> <p>a.Certification as a Clinical Supervisor or Addictions Counselor I or II under the system administered by the SC Association of Alcohol and Drug Abuse Counselors (SCAADAC) Certification Commission, or currently engaged (as verified and documented in the individual's personnel file) in the SCAADAC certification process that is to be completed within a three-year period from date of hire as a counselor;</p> <p>b.Certification as an addictions counselor by:</p> <p>(1)The National Association of Alcohol and Drug Abuse Counselors (NAADAC); or</p> <p>(2)An International Certification Reciprocity Consortium-a Approved certification board;</p> <p>(3)Any other SC Department of Alcohol and Other Drug Abuse Services (DAODAS)-approved credentialing/certificati</p>	
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		<p>on association or commission.</p> <p>c.Licensed as a:</p> <p>(1)Psychiatrist by the SC Board of Medical Examiners;</p> <p>(2)Psychologist by the SC Board of Examiners in Psychology;</p> <p>(3)Social worker by the SC Board of Social Work Examiners;</p> <p>(4)Counselor or therapist by the SC Board of Examiners for Professional Counselors, and Marital and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists pursuant to Section 40-75-30, of the SC Code of Laws, 1976, as amended.</p> <p>2.For counselors in opioid treatment programs ( OTP):</p> <p>a.Any of the certifications/licensures in 504.A.1 above; or</p> <p>b.The American Academy of Health Care Providers in the Addictive Disorders;</p> <p>c.The National Board for Certified Counselors; or</p> <p>d.Any other equivalent, nationally-recognized,</p>	
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		<p>and DAODAS-approved association or accrediting body that includes similar competency-based testing, supervision, educational, and substantial experience.</p> <p>3.For prevention services when provided:</p> <p>a.Certification by the SC Association of Prevention Professionals and Advocates as a Prevention Professional or Senior Prevention Professional; or</p> <p>b.In-process of becoming certified as a Prevention Professional. This certification shall be achieved within a 33 36-month period of time from the date of hire as a prevention counselor professional.</p> <p>B.Any individual employed as a direct client counselor, OTP counselor , or prevention services counselor professional, to include contracted staff, who does not obtain his/her certification/licensing within the above time-periods, shall cease providing counseling services until that certification/licensing status is achieved.</p>	
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<p>16. Christine Martin, Chairperson, SCATOD</p>	<p>504</p>	<p>Recent legislation has passed which will amend Chapter 75, Title 40 of the 1976 Code to include a new license titled Licensed Addiction Counselor. This amendment will subsequently cause changes to Section 504.A.1.c.(4) of Regulations 61-93 which addresses licenses under this Code. However, the way in which this regulation is currently applied, only <i>licensed</i> counselors or therapists may provide direct client services. Historically, licensed counselor or therapist <i>associates (previously interns)</i>, who are prelicensure have not been eligible to conduct direct client services in a substance use disorder treatment setting. As the LPC license and LMFT license do not require specific education, specialization, or supervision relating to addiction, this historically has made sense. New clinicians wishing to specialize in addiction treatment have, therefore, achieved their direct client experience through the avenue provided in regulation 504.A.1.a. Certification as an addiction counselor under SCAADAC. This regulation allows for</p>	<p>Adopted. 508.B.3</p>
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		<p>clinician who are <i>in-process</i> for the certification, and subsequently under supervision, to perform direct client services.</p> <p>This is essential to allow new clinicians entering the field to gain direct client experience.</p> <p>SCATOD would similarly like to see LAC-associates (pre-licensure) be qualified by the regulations to provide direct client services, when under appropriate supervision as directed in SC Code.</p> <p>Associate level licensees must gain experience in their field of work to achieve full licensure. If clarification or a change in regulation 504.A.1.c.(4) is not made to qualify LAC-associates to perform direct client services in substance use disorder treatment settings, new clinicians entering the field would also have to be in process for CAC certification under SCAADAC in order to become qualified to counsel clients. This will be a deterrent for new clinicians to seek the LAC licensure if, in order to achieve the experience needed for the LAC licensure, they must simultaneously apply and pay for the CAC certification under SCAADAC.</p>	
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		<p><b>Proposed new language under 504.A.1.d:</b>  <u>d. Licensed as an associate:</u>  <u>(1) Addiction Counselor by the SC Board of Examiners for Professional Counselors and Marital and Family Therapists, pursuant to Section 40-75-30, of the SC Code of Laws, 1976, as amended, under appropriate supervision. Full licensure must be completed within a three-year period from date of hire as a counselor.</u></p>	
17. Laura Aldinger, BHSA of SC, Inc.	504.1.C(4)	“Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists”	Adopted. 508.B.2.d
18. Tricia Hackett, The Phoenix Center/DAODAS	601	<p>Accidents/Incidents -</p> <p>A. Need clearer language that all incident in this section must be reported to DHEC within 24 hours and when a 5-day follow-up is required;</p> <p>B. Define difference between elopement and client left without notification for more than 24 hours.</p>	Adopted. 601
19. Lee Dutton, Chief of Staff, DAODAS	601.B	Add “Overdose reversal (naloxone)” to the list of accidents and/or incidents requiring reporting.	Adopted. 601.B.4

<p>20. Christine Martin, Chairperson, SCATOD</p>	<p>601.B</p>	<p>SCATOD requests clarification on reporting timeframes outlined in this section. For incidents involving unexpected death or serious injury it is clearly stated that they report must be made within 24 hours. The next line states, “The licensee shall submit a report of the licensee’s investigation of the accident and/or incident to the Department within five days.” It is unclear whether this references an investigation of the previously mentioned incident resulting in death or serious injury. Or the subsequently listed incidents. Also, the accident/incident report form online on the Bureau of Health Facilities Licensing website lists a 24-hour, a 5-day, and a 10-day report. It is unclear in 601.B which incidents align with the 5 and 10 day reporting timeframes.</p> <p>Additionally, SCATOD requests distinction on items that may not apply to an outpatient setting, such as elopement and use of physical restraints. SCATOD also requests clarification on how certain incidents may apply in an outpatient setting (e.g. if a patient reports abuse or endures a fracture,</p>	<p>Adopted. 601.B 601.C</p> <p>Partially Adopted 601.A.</p>
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		hospitalization, burn, hematoma, laceration, suicide attempt, etc., but not while at the facility, is this a reportable incident? Or do these only apply when they occur at the licensed facility?)	
21. Lee Dutton, Chief of Staff, DAODAS	701.A	... All entries shall be written legibly in ink or typed and signed and dated <u>or documented in the electronic medical record.</u>	Adopted. 701.A
22. Laura Aldinger, BHSA of SC, Inc.	701.A	Add "or documented in the Electronic Health Record" at the end of the last sentence.	Adopted. 701.A
23. Laura Aldinger, BHSA of SC, Inc.	703	This includes electronic health records. -- Under B. this needs to be deleted to reference HIPAA and 42 CFR Part 2 since those are the gold standard, and when changed these regulations will update.	Not Adopted. We do not enforce HIPAA
24. Lee Dutton, Chief of Staff, DAODAS	1103.C	Suggest removing the "EXCEPTION" language.	Adopted in a Modified State. 1203.D
25. Lee Dutton, Chief of Staff, DAODAS	1103.C.1	1. The medication does not require a prescription and is not specifically prescribed; <u>must be documented on the Physical Exam form or medical administration record (MAR).</u>	Not adopted. This suggestion presents a concern for medication reactions whenever two or more drugs are being taken, and there is a chance that there will be an interaction among the drugs. The interaction may increase or decrease the effectiveness of the drugs or the side effects of the drugs.
26. Lee Dutton, Chief of Staff, DAODAS	1103.C.2	2. The client's physician or other authorized healthcare provider documents in the client's record that	Adopted in a modified state. 1203.D

		the client may, at the client's discretion, use and self-administer all nonprescription medications; <u>documented on the MAR with staff/client signature when requested.</u>	
27. Lee Dutton, Chief of Staff, DAODAS	1105.B	Add the following sentence to the end of 1105.B: <u>This shall be documented and signed by the pharmacist.</u>	Adopted. 1205.B
28. Lee Dutton, Chief of Staff, DAODAS	1105.D	<del>D-</del> If a physician or other authorized healthcare provider changes the dosage of a medication, a label, which does not obscure the original label, shall be attached to the container which indicates the new dosage, date, and prescriber's name. In lieu of this procedure, it is acceptable to attach a label to the container that states "see MAR and physician or other authorized healthcare provider orders for current administration instructions." <del>The new directions shall be communicated to the pharmacist on reorder of the drug.</del>	Adopted. 1205.D
29. Lee Dutton, Chief of Staff, DAODAS	1106.A	Amend the last sentence as follows: Medications may be stored in a separate locked box within a multi-use refrigerator at or near the medication storage area, <u>either behind a locked door or the refrigerator shall be locked.</u>	Adopted in a modified state. 1203.A

30. Lee Dutton, Chief of Staff, DAODAS	1106.D	D. Unless the facility has a permitted pharmacy, stocks of legend medications shall not be stored except those specifically prescribed for individual clients. <u>Stocks of naloxone may be stored for emergency overdose crises, with or without a specific prescription for individual clients.</u> Non-legend medications may be retained and labeled as stock in the facility for administration as ordered by a physician or other authorized healthcare provider...	Adopted. 1206.D.3
31. Lee Dutton, Chief of Staff, DAODAS	1106.E	Suggest removing this subsection.	Not Adopted.
32. Lee Dutton, Chief of Staff, DAODAS	1106.F	F. The medications prescribed for a client shall be protected from use by other clients, visitors and staff/volunteers. For those clients who have been authorized by a physician or other authorized healthcare provider to self-administer medications, such medications <u>(nitroglycerin, rescue inhalers, epipens)</u> may be kept on the client's person, i.e., a pocketbook, pocket, or any other method that would enable the client to control the items.	Adopted 1206.G
33. Lee Dutton, Chief of Staff, DAODAS	1106.G	Suggest removing this subsection.	Not adopted. These medications would require immediate access by the Patients.



34. Crystal Sadler	1107.D	<p>Section 1107 D. destruction of controlled medications- some agencies don't have any nurses on staff to witness the destruction of controlled meds left behind after discharge. Local pharmacist or the dispensing pharmacy will not take them back. Please change the REGs to say the unused portions can be destroyed by a administrator or designee. Can agencies use Detera packets along with the Proper Disposal of Unwanted Medicine Fact Sheet from DHEC dated ML-025410 2/09?</p>	<p>Not Adopted. This is consistent with other regulations.</p>
35. Christine Martin, Chairperson, SCATOD	1200	<p>SCATOD requests that Opioid Treatment Programs be removed from the requirements under this section. Opioid Treatment Programs do not provide meal services. Opioid Treatment Programs have reported misapplication of these regulations resulting in citations for not having employee food stored in employee break areas properly labeled in refrigerators (1202.E).</p>	<p>Adopted. 1301</p>
36. Laura Aldinger, BHSA of SC, Inc.	1202	<p>This section should be noted to only include those inpatient facilities. Outpatient facilities should not have to adhere to Section 1202 (and needs to be stated as</p>	<p>Adopted. 1301</p>

		inspectors are not aware).	
37. Laura Aldinger, BHSA of SC, Inc.	1403	1. Request that low risk facilities require a single step TB Skin Test. 2801. Need clarification of current 301s that are providing MAT onsite through a contract with a physician. Are they considered OTP?	Not Adopted. Based on TB Control's suggestion.
38. Crystal Sadler	1403	Reg 61-93 section code 1403 and letter dated 8/31/2011 from DHEC/Gwen Thompson. a lot of local doctors in the area don't staff RN anymore making it harder to find someone to complete a 2 step PPD. Make the standard that anyone per the MD orders can perform a PPD test (Certified Medical Assistant, LPN etc...). but a MD, NP, PA must sign off on it along with the health assessment.	Not adopted. TB Control will not allow this to be done.
39. Christine Martin, Chairperson, SCATOD	1405.A.3	SCATOD requests greater clarification on the definitions of "harmful chemicals" and "safe storage." SCATOD members report a history of citations for leaving hand sanitizer accessible for patient use, and being told they must keep certain hazardous materials in a locked, nonflammable, separate storage unit inside an already locked storage room.	Adopted. 1704.A
40. Christine Martin, Chairperson, SCATOD	1408	SCATOD requests that Opioid Treatment	Adopted. 1707

		Programs be removed from the requirements under this section. Opioid Treatment Programs do not provide linen or clothing to patients.	
41. Lee Dutton, Chief of Staff, DAODAS	1701.B	B. The quality improvement program, <u>as at</u> a minimum, shall:	Adopted. 1801.B
42. Christine Martin, Chairperson, SCATOD	1800	SCATOD requests a thorough examination of this section and of any requirements in this section that may not be applicable or necessary to an outpatient treatment setting.	Adopted. 1901
43. Lee Dutton, Chief of Staff, DAODAS	1801	The design and construction specifications for Facilities that Treat Individuals for <del>Psychoactive</del> <u>Psychoactive</u> Substance Abuse or Dependence shall conform to the most current nationally accepted standards for facility design set forth in the...	Adopted. 1901
44. Christine Martin, Chairperson, SCATOD	2102	SCATOD requests that Opioid Treatment Programs be removed from the requirements under this section on installation of a generator. Generators present as a significant cost burden and many of the requirements for a generator listed under 2102.B due not apply to Opioid Treatment Programs. Opioid Treatment Programs do no provide inpatient or Residential treatment services and do not use life- sustaining	Adopted. 2405

		<p>equipment requiring electricity (such as medical gas equipment referenced in 2102.B.14).</p> <p>We recommend instead that the Department adopt language such at the following:</p> <p>“Opioid Treatment Programs must have written policies and procedures to address service continuity in the event of utility failure.”</p>	
45. Lee Dutton, Chief of Staff, DAODAS	2218.D	<p>D. There shall be at, or near each client care station, a separate medicine preparation room with a cabinet with one or more locked sections for <del>narcotics</del> <u>FDA approved medications</u>, work space for preparation of medicine...</p>	Adopted in a modified state. 2617.D
46. Christine Martin, Chairperson, SCATOD	2200	<p>SCATOD again requests a thorough evaluation of this section and removal of Opioid Treatment Programs from any sections which many only apply to Residential or inpatient facilities. Many of the items in this section are measured on a “per bed” basis, which would not apply to an outpatient setting. And many items reference “client rooms” which are interpreted to mean Residential rooms, which would not apply to an outpatient setting.</p>	Adopted. 2601

47. Christine Martin, Chairperson, SCATOD	2230.D	SCATOD requests an evaluation of this criteria and the potential barrier it creates to opening new opioid treatment facilities.	Not Adopted. This is statute.
48. Lee Dutton, Chief of Staff, DAODAS	2501.B	... These services address major lifestyle, <del>attitudinal</del> <u>emotional</u> and behavioral issues that have the potential to undermine the goals of treatment or the individual's ability to cope with major life tasks without the nonmedical use of alcohol or other drugs...	Adopted. Section removed.
49. Lee Dutton, Chief of Staff, DAODAS	2502	A complete written assessment of the client shall be conducted within a time-period determined by the facility, but no later than <del>the third visit</del> <u>45 days of intake.</u> (II)	Adopted in a modified state. 703
50. Lee Dutton, Chief of Staff, DAODAS	2503	An <del>HTP</del> <u>IPOC</u> in accordance with Section 701.C & D shall be completed within <del>a time period determined by the facility, but no later than the third visit</del> <u>30 calendar days of the assessment.</u> (II)	Adopted in a modified state. 706.A
51. Lee Dutton, Chief of Staff, DAODAS	2601.B.3	3. Physician and nursing care and observation based on <del>clinical judgment if appropriate to the level of treatment</del> <u>intensity of service;</u>	Adopted. 902
52. Lee Dutton, Chief of Staff, DAODAS	2601.B.6	6. Counselors to assess and treat <del>adult alcohol and/or other drug dependent clients</del> <u>individuals for SUD</u>	Adopted. Section Removed

		and obtain and interpret information regarding the needs of these clients. Such counselors shall be knowledgeable of the biological <del>and</del> psychological, <u>and social</u> dimensions of <del>alcohol and/or other drug dependence</del> <u>substance use disorders</u> ;	
53. Lee Dutton, Chief of Staff, DAODAS	2601.B.7	7. Counselors to provide planned regimen of 24-hour professionally-directed evaluation, care and treatment services for <del>addicted</del> persons <u>with substance use disorders</u> and their families to include individual, group, and/or family counseling directed toward specific client goals indicated in his/her <del>ITP</del> <u>treatment plan</u> ;	Adopted. 902.E.4
54. Lee Dutton, Chief of Staff, DAODAS	2602.A	A. A staff member/volunteer/ <del>desi gnated client</del> shall be present and in charge at all times during daytime hours when clients are present in the facility. A staff member/volunteer/ <del>desi gnated client in charge</del> shall know how to respond to client needs and emergencies. (I)	Adopted. 503.A
55. Lee Dutton, Chief of Staff, DAODAS	2602.B	B. Number of staff that shall be maintained in all facilities: 1. In each building, there shall be at least one staff member/volunteer/desi gnated client on duty for each 10 clients or fraction thereof present	Adopted. 503.B

		during peak activity hours. (II) 2. Required nighttime (after the evening meal) staffing shall be provided by a staff member, volunteer, or a designated client: a. In each building, there shall be at least one staff member/volunteer/designated client on duty for each 20 clients or fraction thereof.	
56. Lee Dutton, Chief of Staff, DAODAS	2602.B.3	Suggest removing this subsection.	Adopted.
57. Lee Dutton, Chief of Staff, DAODAS	2604	A complete written assessment of the client in accordance with Section 101.H by a multi-disciplinary treatment team shall <u>begin at admission and</u> <del>be conducted within a time period determined by the facility, but no later than 72 hours after admission completed</del> <u>and filed in the clinical record within 10 working days from admission.</u>	Adopted in a modified state. 703
58. Christine Martin, Chairperson, SCATOD	2800	SCATOD recommends in the title of Part V, Section 2800, and in all subsequent and preceding references, that DHEC eliminate the use of the term “Narcotic Treatment Program” and its abbreviation “NTP” and adopt the more current terminology used by AATOD, SAMHSA, CSAT, ASAM, and others, “Opioid Treatment	Adopted.

		Program” and its abbreviation “OTP.”	
59. Lee Dutton, Chief of Staff, DAODAS	2801.A	<p>A. <del>Narcotic</del> <u>Opioid</u> treatment programs (<del>NTP</del> <u>OTP</u>) provide medications for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group. <del>Opioid maintenance therapy (OMT)</del> <u>Medication Assisted Treatment (MAT)</u> is <del>term that</del> encompasses a variety of pharmacologic and non-pharmacologic treatment modalities, including the therapeutic use of specialized <del>opiod compounds such as methadone and levo-alpha-acetylmethadol (LAAM) to psycho-pharmacologically occupy opiate receptors in the brain, extinguish drug craving, and thus establish a maintenance state</del> <u>FDA approved medications</u>. <del>OMT</del> <u>MAT</u> is a separate service that can be provided in any level of care, as determined by the client's needs. Adjunctive non-pharmacologic interventions are essential and may be provided in <del>OMT</del> <u>OTP</u> or through coordination with another addiction treatment provider.</p>	Adopted.
60. Christine Martin, Chairperson, SCATOD	2801.A	SCATOD recommends revision of the paragraph in 2801.A to	Adopted. 101.OO



		<p>reflect current terminology and practice, and to eliminate reference to the drug levo-alpha-acetylmethadol (LAAM) which is no longer produced in the U.S. and no longer used in the treatment of Opioid Use Disorder.</p> <p>SCATOD also recommends further modernizing this paragraph by adopting language similar to that used in the current edition of “The ASAM Criteria” patient placement manual.</p> <p>“‘Opioid Treatment Services’ (OTS) is an umbrella term that encompasses a variety of pharmacological and nonpharmacological treatment modalities. This term is intended to broaden understandings of opioid treatments to include all medications used to treatment opioid use disorders and the psychosocial services that are offered concurrently with these pharmacotherapies. Pharmacological agents include opioid agonist medications such as methadone and buprenorphine, and opioid antagonist medications such as naltrexone. Opioid agonist medications pharmacologically occupy opioid receptors</p>	
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		<p>in the body. They thereby relieve withdrawal symptoms and reduce or extinguish cravings for opioids. The result is a continuously maintained physiological/neurochemical state in which the therapeutic agent does not produce euphoria, intoxication, or withdrawal symptoms. This allows the patient to function free of the major physiological components of their opioid use disorder.”</p> <p>“Opioid Treatment Programs (OTPs) are heavily regulated by federal agencies and involve the direct administration of medications on a daily basis without prescribing of medications.”</p>	
61. Lee Dutton, Chief of Staff, DAODAS	2801.B.1.e	e. Availability of physician to evaluate, prescribe, and monitor use of <u>NTP FDA approved</u> medications, and of nurses and pharmacists to dispense and administer <u>NTP</u> medications.	Adopted. Section Removed
62. Lee Dutton, Chief of Staff, DAODAS	2801.B.3.b	b. Assessing, prescribing, administering, reassessing and regulating dose levels appropriate to the individual; supervising <del>detoxification from opiates, methadone or LAAM</del> <u>FDA approved medication management</u> ;	Adopted. Section Removed

		overseeing and facilitating access to appropriate treatment, including medication for other physical and mental health disorders;	
63. Christine Martin, Chairperson, SCATOD	2801.B.3.b.	Replace use of LAAM with “buprenorphine.”	Adopted. Section Removed
64. Lee Dutton, Chief of Staff, DAODAS	2801.B.3.f	f. Psycho-education, including HIV/AIDS, <u>Hepatitis</u> and other health education services.	Adopted. 903.A.3.a
65. Lee Dutton, Chief of Staff, DAODAS	2802.A	A. Services shall be directed toward reducing or eliminating the use of illicit drugs, criminal activity, or the spread of infectious disease while improving the quality of life and functioning of the client. <del>NTP</del> <u>OTP</u> shall follow rehabilitation stages in sufficient duration to meet the needs of the client. These stages include initial treatment <del>up to seven days in duration</del> , early stabilization <del>lasting up to eight weeks</del> , long-term treatment, medical maintenance, and immediate emergency treatment when needed.	Adopted. 903.A.1
66. Lee Dutton, Chief of Staff, DAODAS	2802.C	C. As part of drug rehabilitative services provided by the <del>NTP</del> <u>OTP</u> , each client shall be provided with individual, group and family counseling <del>appropriate to his/her needs</del> <u>as based on the assessment</u> . The frequency and duration of counseling provided	Adopted. 903.A.3

		to clients shall be determined by the needs of the client and be consistent with the <del>FTP</del> <u>treatment plan</u> . Counseling shall address, as a minimum:	
67. Lee Dutton, Chief of Staff, DAODAS	2803.A	A. The <del>NTP</del> <u>OTP</u> shall ensure that a comprehensive range of support services, including, but not limited to, vocational, educational, employment, legal, mental health and family problems, medical, alcohol <del>dependence</del> <u>use disorder and</u> or other addictions...	Adopted. 903.B.1
68. Lee Dutton, Chief of Staff, DAODAS	2803.B	B. When appropriate, the <del>NTP</del> <u>OTP</u> shall <del>recommend that</del> <u>link</u> the client <del>enroll in an</del> <u>with educational program</u> , vocational activity ( <del>vocational evaluation, education or skill training</del> ) and/or to <del>seek</del> <u>employment services</u> . Deviations from compliance with these recommendations shall be documented in the client's record.	Adopted. 903.B.2
69. Lee Dutton, Chief of Staff, DAODAS	2803.C	C. The <del>NTP</del> <u>OTP</u> shall establish and utilize <u>formal</u> linkages with community-based <del>treatment facilities, i.e.,</del> <u>an established providers through an established</u> set of procedures for <del>referring clients to</del> <u>coordinating care with</u> physicians or other health <u>or behavioral</u> care providers <del>when the treatment of coexisting</del>	Adopted in a modified state. 903.B.3

		<del>disorders become a major concern.</del>	
70. Lee Dutton, Chief of Staff, DAODAS	2804.B	B. The <del>NTP</del> <u>OTP</u> shall provide, through in-house <u>services</u> or referral <del>and documented in the ITP,</del> <u>to</u> appropriate services/interventions for the pregnant client to include:	Adopted in a modified state. 903.C.2
71. Lee Dutton, Chief of Staff, DAODAS	2804.D	D. <del>NTP</del> <u>FDA approved</u> medication dosage levels shall be maintained at an appropriate level for pregnant clients as determined by the <del>NTP</del> <u>OTP</u> physician. (I)	Adopted. 903.C.4
72. Lee Dutton, Chief of Staff, DAODAS	2804.F	F. All activities shall be <u>documented in the individual's record.</u>	Adopted. 902.C
73. Lee Dutton, Chief of Staff, DAODAS	2807.A	Replace “narcotic dependency” with “opioid use disorder.”	Adopted.
74. Christine Martin, Chairperson, SCATOD	2807.A	Replace “narcotic dependency” with “opioid use disorder.”	Adopted.
75. Lee Dutton, Chief of Staff, DAODAS	2807.B.2	Replace “addiction” with “dependence.”	Adopted.
76. Lee Dutton, Chief of Staff, DAODAS	2807.B.5.h; 2807.B.5.i	Replace “drug” with “substance.”	Adopted.
77. Lee Dutton, Chief of Staff, DAODAS	2807.B.6	6. A diagnosis of opioid <del>addiction</del> <u>use disorder</u> , referring to the initial screening criteria in Sections 3207.B.1-5 above, and the following behavioral signs: a. <del>Unsuccessful efforts to control use</del> <u>Opioids are often taken in larger amounts or over a longer period than was intended;</u> b. <del>Large amounts of time obtaining drugs or recovering from the effects of abuse</del> <u>There</u>	Not adopted. Previous criteria is valid as is and will remain in the regulation.

		<p>is a persistent desire or unsuccessful efforts to cut down or control opioid use;</p> <p>c. <del>Continual use despite harmful consequences</del>  <u>A great deal of time is spent in activities necessary to obtain the opioid, use the opioid, or recover from its effects;</u></p> <p>d. <del>Obtaining opiates illegally</del> <u>Craving, or a strong desire or urge to use opioids;</u></p> <p>e. <del>Inappropriate use of prescribed opiates</del>  <u>Recurrent opioid use resulting in a failure to fulfill major role obligations at work, school, or home;</u></p> <p>f. <del>Harmful/negative effect on social, occupational or recreational activities.</del>  <u>Continued opioid use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of opioids;</u></p> <p>g. <u>Important social, occupational, or recreational activities are given up or reduced because of opioid use;</u></p> <p>h. <u>Recurrent opioid use in situations in which it is physically hazardous;</u></p> <p>i. <u>Continued opioid use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance;</u></p>	
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		<p><u>j. Tolerance, as defined by either of the following: a. A need for markedly increased amounts of opioids to achieve intoxication or desired effect. b. A markedly diminished effect with continued use of the same amount of an opioid. Note: This criterion is not considered to be met for those taking opioids solely under appropriate medical supervision.</u></p> <p><u>k. Withdrawal, as manifested by either of the following:</u></p> <ul style="list-style-type: none"> <li><u>• The characteristic opioid withdrawal syndrome</u></li> </ul> <p><u>Opioids (or a closely related substance) are taken to relieve or avoid withdrawal symptoms.</u></p>	
78. Lee Dutton, Chief of Staff, DAODAS	2807.C.1.A-D	<p><del>a. Unsuccessful efforts to control use, including past failed detoxification efforts</del>  <u>Inability to take medications according to an agreed upon schedule;</u></p> <p><del>b. Large amounts of time spent in activities to obtain drugs, including past criminal involvements</del>  <u>Taking multiple doses together;</u></p> <p><del>c. Written documentation from a pain management physician attesting to the clients need for NTP medication due to the client's physical</del></p>	Not adopted. A facility could indicate this in their written admission policy rather than have DHEC regulate such medical criteria or pass medical judgment.

		<p>dependence, resultant tolerance, and that physician's discontinuance of effective opioid pain relief measures with the client</p> <p><u>Frequent reports of lost or stolen prescriptions.</u></p> <p>d. <u>Continued use, despite having suffered lifestyle consequences of illicit use, e.g., arrests, hospitalizations, family problems, financial setbacks, and employment difficulties</u></p> <p><u>Doctor shopping.</u></p> <p>e. <u>Isolation from family and friends, and/or</u></p> <p>f. <u>Use of nonprescribed psychoactive drugs in addition to prescribed medications.</u></p> <p>g. <u>Other behaviors which may raise concern are the use of analgesic medications for other than analgesic effects, such as sedation, an increase in energy, a decrease in anxiety, or intoxication;</u></p> <p>h. <u>Non-compliance with recommended non-opioid treatments or evaluations;</u></p> <p>i. <u>Insistence on rapid-onset formulations/routes of administration;</u></p> <p>j. <u>Or reports of no relief whatsoever by only non-opioid treatments.</u></p>	
79. Christine Martin, Chairperson, SCATOD	2808	SCATOD recommends that language be added here to allow for the OTP physician to waive the blood work requirements in cases where the OTP medical	Adopted. 1100.E



		<p>staff are unable to perform an adequate blood draw to complete these laboratory tests. Persons with an opioid use disorder who inject drugs can present with multiple collapsed veins, making a blood draw more challenging. Patients entering Opioid Treatment Programs for admission are also frequently in active opioid withdrawal and may be dehydrated, which can also complicate blood draws.</p> <p>Suggested addition:</p> <p>“C. In the event that the medical staff are unable to obtain an adequate blood draw within seven days of admission, staff must reattempt within thirty days of admission. Following at least three documented failed attempts at a blood draw, the OTP physician may waive in writing the blood testing requirements under 2808.B.”</p>	
80. Christine Martin, Chairperson, SCATOD	2808.B.1	SCATOD requests that consideration be given to removing the requirement for a CBC with differential from the requirements for the medical laboratory analysis, as the conditions that a CBC with differential are useful in detecting are generally outside of the scope of an Opioid	Not Adopted.

		Treatment Program to address or treat.	
81. Christine Martin, Chairperson, SCATOD	2809.F-G	<p>The original intention under Part V Narcotic Treatment Programs; Section 2809 Urine Drug Testing (II) was for paragraph G. to precede paragraph F.</p> <p>The intention for paragraph G. was to ensure that clients of the NTP who had been granted take-home medication were tested more frequently than the requirement under federal law, which is a minimum of only 8 random drug-tests per year for maintenance clients. One of the primary purposes of drug-testing in an opioid treatment setting is monitoring for possible diversion of the treatment medication. Clients granted take-home dosages must be monitored more closely. Consequently paragraph G. requires that patients receiving take-home dosages undergo random testing monthly (vs. eight per year). Paragraph F. was intended to further build off of paragraph G. If a patient receiving take-home dosages, and therefore on a “monthly [testing] schedule”, were to have a positive screen, the monitoring should become even more intensive due to the risks of diversion. Thus the requirement</p>	Adopted in a modified state. 904

		<p>that “clients on a monthly schedule” be tested weekly, for a period of time determined by the NTP physician. Paragraphs F. and G. under Section 2809 were never intended to be applied to clients under the strict daily monitoring of the NTP. These clients receive and ingest their medication under the close supervision of the NTP where there is no risk or opportunity for the client to divert the medication. However, over the last 10 plus years, paragraphs F. and G. have been misinterpreted to mean that any NTP client who has a positive drug-test must be tested on a weekly basis, regardless of whether or not they are receiving take-home medication. And rather than the duration of weekly testing being left up to the NTP physician, it has been interpreted that a positive drug-screen requires, without exception, a repeated drug-screen within a one week period. Confusion over the intentions of this regulation resulted, for a period of time, in numerous citations. And has led to considerable burden on patients and programs, without additional</p>	
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		<p>clinical benefit. Testing Costs - The average cost for a full panel urine drug test is \$20. Roughly 30% to 50% of clients in NTP services are receiving 3 additional drug tests due per month due to current DHEC staff interpretation of this regulation. The average number of clients per NTP is 500; the average cost for the 3 additional tests is \$60; using the 30 to 50 percent number, it works out to between \$9,000 and \$15,000 in additional costs for testing per clinic per month due to this interpretation. Staff Time- Clinic staff is required to monitor and collect urine samples for testing. On average each drug test required fifteen minutes of staff time. The time required to enter the drug test results into the clinical records of these clients is ten minutes. Again using the 30% to 50% number (150 to 250 clients) this works out to between 62.5 and 103.5 hours of additional staff hours per week. Average staff salary is \$16.00 per hour, so this equates to an additional \$3,000 to \$5,000 per NTP per month in salary alone, not including benefits. Total Financial Burden- At a minimum the current interpretation of</p>	
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		<p>this regulation costs each NTP between \$12,000 and \$20,000 per month.*It should also be noted that weekly testing does not increase client safety nor lower the risk of diversion (since these clients are not eligible to receive take-home dosages). And that there is no evidence to suggest that more frequent testing results in improved treatment outcomes. For drugs with lengthy detection times, such as marijuana (which can remain detectable in urine for up to 30 days) weekly drug testing may even be considered as nonsensical.</p> <p>Proposed change for 2809.F and 2809.G:F. Clients granted take-home dosages shall undergo random drug testing on a monthly basis. G. Clients granted take home dosages for whom urine testing reports indicate positive results from any illicit drugs, non-prescription drugs, or negative results for NTP medication, shall be placed on a weekly urine drug test schedule for a period of time as clinically indicated by the NTP physician. The re-ordering of these paragraphs and addition of this language would coincide with the original intent of this regulation and clarify</p>	
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		the current misinterpretation.	
82. Christine Martin, Chairperson, SCATOD	2809	<p>SCATOD recommends that a line be added under 2809 that would allow for use of oral fluid testing, in addition to urine testing, as a form of drug-screening. Oral fluid testing is becoming a more commonly used alternative to urine testing as the technology has advanced. Allowing for oral fluid testing could reduce issues of non-compliance for patients that have difficulty providing a urine sample, and may be a useful tool for providers in cases of suspected attempts to adulterate urine samples.</p> <p>Suggested language:</p> <p>“While urine drug testing should remain the preferred method of testing, OTPs may use oral fluid testing as an alternative to urine testing in cases where a patient is unable to void urine, where a patient is suspected of tampering with urine samples, or other times as determined by the program physician.”</p>	Adopted. 904
83. Lee Dutton, Chief of Staff, DAODAS	2810.K	K. The nature of addictive disorders and recovery including misunderstandings regarding	Adopted. 905.K

		<del>methadone/LAAM treatment</del> MAT;	
84. Christine Martin, Chairperson, SCATOD	2810.K	Replace “methadone/LAAM treatment” with “methadone/buprenorphine treatment.”	Adopted in a modified state. 905.K
85. Lee Dutton, Chief of Staff, DAODAS	2811	A comprehensive <u>bio</u> -psycho-social assessment shall be completed by the client's primary counselor once the client is stabilized but not later than 30 days following admission. The assessment shall include:	Adopted. 705
86. Christine Martin, Chairperson, SCATOD	2816.C	SCATOD requests that this item be revised to strike the following line: “a licensed nurse shall be present at all times clients are in the facility.” Some SC OTPs have operating hours that are for clinical/counseling services only. Once the OTP pharmacy has closed and no further medical services are being provided, the OTP should not be required to have a nurse present.	Adopted. 505.C
87. Christine Martin, Chairperson, SCATOD	2817.C.1	SCATOD request that “in oral liquid form” be stricken from this section. Buprenorphine, an OTP medication in common use, does not come in liquid form. Buprenorphine comes in a pill or strip form and is taken transmucosally. Although liquid is the form of methadone	Adopted. 1208.a

		<p>most commonly used in an Opioid Treatment Program, pill and wafer forms of methadone are available and may be used by Opioid Treatment Programs as an alternative to liquid.</p> <p>Suggested revision:</p> <p>“OTP medication, including guest and take-home doses, shall be administered to clients in single doses. Take-home bottles shall be labeled in accordance with federal and state law and regulations and shall contain necessary cautionary statements; caps shall be childproof.”</p>	
88. Lee Dutton, Chief of Staff, DAODAS	2818.A.6	<p>6. Progress in maintaining a stable lifestyle as evidenced by:</p> <p><del>a. Absence of abuse of narcotic and non-narcotic drugs; opioids and non-opioids</del></p> <p><del>b. Absence of alcohol abuse, or determination that the client is no longer abusing alcohol and is in treatment for the alcohol abuse problem;</del></p> <p><del>c. Regularity of attendance at the NTP</del> <u>OTP</u>, to include required counseling sessions;</p> <p><del>d. Absence of serious behavior problems, including loitering at the NTP;</del></p> <p><del>e a. Absence of known recent criminal activity;</del></p>	Adopted in a modified state. 1208.B.6



		<p>¶ <u>b</u>. Employment, school attendance, or other appropriate activity;</p> <p>§ <u>c</u>. Assurance that take-home medication can be securely transported and stored by the client for his/her use only.</p>	
89. Christine Martin, Chairperson, SCATOD	2819.A	<p>The requirements under 2819.A for accepting guest patients from other facilities have been prohibitive during times of natural disaster. During natural disasters South Carolina OTPs will often receive evacuees of other OTPs requesting guest-dosing for continuity of services. Because the staff from the evacuee's home OTP have often also been forced to evacuate, attempting to obtain written authorization from their physician, and historical information on the patient becomes highly challenging.</p> <p>Following Hurricane Florence, when many North Carolina patients evacuated to our state, SC OTPs received the following communication from our CSAT regional compliance officer:</p> <p>“It has come to our attention that some OTPs may be turning away patients seeking guest dosing because</p>	Adopted. 1209.D

		<p>they do not have guest dosing policies in place or may not be able to confirm patient dosages. Many of the home OTP clinics still do not have power and therefore it may be difficult for them to fax physician orders to the receiving clinic. Dose verification may be handled verbally by phone. <b>SAMHSA requests that OTP programs do not decline guest dosing during this emergency situation.</b> It is imperative that programs go out of their way to serve patients.”</p> <p>SCATOD is requesting that DHEC incorporate a mechanism into the regulations that would allow OTPs to serve evacuated patients during times of disaster or emergency, when unable to obtain authorization in writing from the sending OTP physician.</p> <p>Suggested revision:</p> <p>2819. Guest-Dosing (II)  A. When a client is separated from his/her OTP for an extended period, and the client is in the vicinity of a SC-licensed OTP, guest-dosing may occur provided there is: (I)</p>	
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		<p>1. Authorization in writing from the sending OTP physician;</p> <p>2. Information from the sending OTP to include at least the following: client name, identifying information, means of identity verification, dates of guest-dosing, amount of each day's dose, number of take-home doses (if any), urinalysis history, and any other information requested by the authorizing treatment OTP.</p> <p><b>3. In the event that the sending OTP is unable to be reached due to a natural disaster or other emergency situation (fire, abrupt closure, etc.), the SC-licensed OTP physician shall make a judgement on a proper dosing protocol for the guest-patient based on any available information, and will write an order for guest-dosing to that effect.</b></p>	
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(x) ACTION/DECISION  
( ) INFORMATION

Date: November 7, 2019

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

From: Bureau of Health Facilities Licensing

**Re: Notice of Proposed Regulation Amending R.61-97, *Standards for Licensing Renal Dialysis Facilities*.**

## **I. Introduction**

The Bureau of Health Facilities Licensing ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-97, *Standards for Licensing Renal Dialysis Facilities*, for publication in the November 22, 2019, *South Carolina State Register* ("State Register"). Legal authority for these amendments reside in S.C. Code Sections 44-7-260 *et seq.*, which require the Department of Health and Environment Control ("Department") to establish and enforce basic standards for the licensure, maintenance, and operation of health facilities and services in order to ensure the safe and adequate treatment of persons served in this state. In accordance with S.C. Code Section 1-23-120, General Assembly review is required.

## **II. Facts**

1. The Bureau proposes amending R.61-97 to update provisions in accordance with current practices and standards. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Bureau further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-97 was last amended in 2010.
2. The Department had a Notice of Drafting published in the March 22, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received seven public comments from various parties by April 22, 2019 end date of the public comment period. Attachment C presents a summary of these public comments received and the Department's responses to them.
3. The Bureau held stakeholder meetings on April 1, 2019, and August 13, 2019. The Bureau considered stakeholder feedback in formulating the proposed amendments herein.
4. Appropriate Department staff conducted an internal review of the proposed amendments on August 8, 2019.

## **III. Request for Approval**

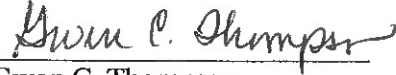
The Bureau respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the November 22 2019, *State Register*.

### III. Request for Approval

The Bureau of Health Facilities Licensing respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the November 22, 2019, *State Register*.



Angie Smith  
Interim Chief of Health Facilities Licensing



Gwen C. Thompson  
Interim Director of Health Regulation

#### Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the March 22, 2019, *State Register*
- C. Summary of Public Comments Received and Department Responses

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR REGULATION 61-97, *Standards for Licensing Renal Dialysis***

**November 7, 2019**

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

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

Statutory Authority: 1976 Code Sections 44-7-260 et seq.

61-97. Standards for Licensing Renal Dialysis Facilities.

**Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-97 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-97 was last amended in 2010.

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

A Notice of Drafting was published in the March 22, 2019, *South Carolina State Register*.

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

**The Table of Contents was amended to reflect proposed revisions.**

**CHAPTER 1 Definitions and Interpretations** removed to create consistency with other regulations.

**SECTION 100 DEFINITIONS AND LICENSURE**

Section 100 title amended to create consistency with other regulations. Recodified each definition as need to maintain alphabetical organization.

**101. Definitions (Formerly SECTION 101.Definitions)**

101.A definition of Abuse added to create consistency with other regulations.

101.B definition of Administering Medication added to create consistency with other regulations.

101.C definition of Administrator added to create consistency with other regulations.

101.D definition of Annual added to create consistency with other regulations.

101.E definition of Assessment added to create consistency with other regulations.

101.F definition of Authorized Healthcare Provider added to create consistency with other regulations.

101.G definition of Consultation added to create consistency with other regulations.

101.J definition of Controlled Substance added to create consistency with other regulations.

101.K definition of Department added to create consistency with other regulations.

101.L definition of Designee added to create consistency with other regulations.

101.N definition of Dietitian amended to create consistency with other regulations.

101.O definition of Direct Care Staff added to create consistency with other regulations.

101.P definition of Discharge added to create consistency with other regulations.

101.Q definition of End-Stage Renal Disease amended to remove acronym.

101.R definition of End-Stage Renal Disease Service amended to remove acronyms and reflect current terminology.

101.S definition of Exploitation added to create consistency with other regulations

101.T definition of Health Assessment added to create consistency with other regulations.

101.U definition of Home Dialysis amended for clarity.

101.V definition for Home Dialysis Training added to be consistent with the content of this regulation.

101.W definition of Individual Plan of Care added to create consistency with other regulations and reflect current terminology.

Former 101.H definition of Inpatient Dialysis removed to reflect old terminology.

101.X definition of Interdisciplinary Team added to create consistency with other regulations.

101.Y definition of Inspection added to create consistency with other regulations.

101.Z definition of Investigation added to create consistency with other regulations.

101.AA definition of Legend Drug added to create consistency with other regulations.

101.BB definition of License added to create consistency with other regulations.

101.CC recodified to keep alphabetization of definitions consistent and amend to reflect current terminology.

101.DD definition for Licensed Nurse amended to reflect current terminology, create consistency with other regulation, and for clarity.

101.EE definition of Licensee added to create consistency with other regulation.

Former 101.L removed definition of Licensing Agency due to being retired terminology.

101.FF definition of Medical Director added to reflect current terminology and to create consistency with other regulation.

101.GG definition of Medication added to create consistency with other regulations.

101.HH definition of Neglect added to create consistency with other regulations.

101.II definition of Non-Legend Drug added to create consistency with other regulations.

Former 101.M definition for Outpatient Dialysis removed to create consistency with other regulations.

101.JJ definition for Patient amended to create consistency with other regulations.

Former 101.O definition of Patient Care Technician removed due to being retired terminology.

101.KK definition of Physical Examination added to create consistency with other regulations.

101.LL definition of Quality Improvement Program added to create consistency with other regulations.

101.MM definition of Quarterly added to create consistency with other regulations.

Former 101.P definition of Registered Nurse removed to create consistency with other regulations.

101.NN definition of Registered Health Information Administrator added to reflect current terminology.

101.OO definition of Registered Health Information Technician added to reflect current terminology.

101.PP definition for Renal Dialysis Equipment Technician added to reflect current terminology.

101.QQ definition of Renal Dialysis Facility amended for clarity.

101.RR definition for Revocation of License added to create consistency with other regulations.

Former 101.R definition of Self Dialysis and Home Dialysis Training removed due to adding Home Dialysis as its own definition.

Former 101.S definition of Self-Dialysis Unit removed due to being retired terminology.

Former 101.U definition of Staff Assisted Dialysis removed due to not being necessary.

101.SS definition of Station added for clarity.

101.TT definition of Suspension of License added to create consistency with other regulations.

101.UU Tuberculosis Risk Assessment added to create consistency with other regulations.



## **102. Licensure. (II) (Formerly SECTION 102. Interpretations)**

Section 102 title amended to reflect current terminology and to create consistency with other regulations.  
Recodified partial content to create consistency with other regulations.

Section 102.A amended to reflect current terminology, create consistency with other regulations, and to incorporate regulation from former 102.I and 102.J.

Section 102.B.2 amended for clarity.

Former 102.C removed unnecessary regulation.

Former 102.D removed unnecessary regulation.

Former 102.E-L removed to allow for new content in Section 102 that is consistent with other regulations.

Section 102.C-O added to create consistency with other regulations.

Section 102.N added to reflect change from exception (former 102.K) to variance.

## **103. Requirements for Issuance of License. (Formerly SECTION 103. Penalties)**

Former Section 103 introductory paragraph recodified to 301 to create consistencies with other regulations and amended to reflect current terminology.

Former Section 103.A,B,C,D recodified to 302 to create consistencies with other regulations.

**Former CHAPTER 2 Licensing Procedures** – recodified to create consistency with other regulations.

**Former Section 201.Application** recodified to proposed Section 102.

**Former Section 202. Requirement for Issuance of License** recodified to proposed Sections 202.A and 102.F.

**Former Section 203. Termination of License** recodified to proposed Section 102.E

**SECTION 200 – ENFORCEMENT OF REGULATION** added to create consistency with other regulations.

**201. General** added to create consistency with other regulations.

**202. Inspections and Investigations** added to create consistency with other regulations.

**203. Consultations** added to create consistency with other regulations

**Former Chapter 3 Governing Authority and Management** removed and recodified content to create consistency with other regulations.

## **Former 300 Sections Recodified:**

Former Section 301 recodified to proposed Section 500.

Former Section 302.A removed due to being unnecessary for this regulation.

Former Section 302.B recodified to 401.

Former Section 303 recodified to 502.

Former Section 304 recodified to 501.

Former Section 305 Intro. recodified to Section 500 and 1704.

Former Section 305.A recodified to 1703.

Former Section 305.B recodified to 504.

Former Section 305.C recodified to 508.

Former Section 305.D recodified to 501.

Former Section 305.E recodified to 506.

Former Section 305.F recodified to 507.

Former Section 306 recodified to 505.

Former Section 307 recodified to 905.

Former Section 308 recodified to 1000.

Former Section 309 recodified to 1400.

Former Section 310 recodified to 601.

**SECTION 300 – ENFORCEMENT ACTIONS** added to create consistency with other regulations.

**301. General** recodified from former Section 102.J and amended to create consistency with other regulations.

**302. Violation Classifications** Section 302 recodified from 103.A, B, C, D and amended to reflect current terminology and to create consistency with other regulations.

**Former CHAPTER 4 Professional Care** recodified to create consistency with other regulations.

#### **Former 400 Sections Recodified**

Former Section 401 recodified to proposed Section 401.

Former Section 402 recodified to 703.

Former Section 403 recodified to 701 and 704.

Former Section 404 recodified to 503 and 504.A.

Former Section 405 recodified to 1201, 1202, and 1203.

Former Section 406 recodified to 901.

Former Section 407 recodified to 902.

Former Section 408 recodified to 903.

Former Section 409 recodified to multiple sections within SECTION 1700.

Former Section 410 recodified to 1712.

Former Section 411 recodified to 904.

**SECTION 400 – POLICIES AND PROCEDURES** added to create consistency with other regulations.

Section 401.A added to create consistency with other regulations.

Section 401. B recodified from former 302.B.4 and amended to create consistency with other regulations.

Section 401.C recodified from former 302.B and amended to create consistency with other regulations.

**SECTION 500 – STAFF AND TRAINING** added to create consistency with other regulations.

**501. General.**

Section 500 former Section 305 and amended to create consistency with other regulations.

**502. Administrator.**

Section 502 recodified from former 303 and amended to create consistency with other regulations.

**503. Director of Nursing.**

Section 503 recodified from former Section 404 and amended to create consistency with other regulations and to reflect current terminology.

**504. Staffing (I).**

Section 504.A recodified from former 404 and amended to reflect current terminology.

Section 504.B recodified from former 305.B and amended to reflected current terminology.

Section 504.C added to create consistency with other regulations.

**505. Medical Staff.**

Section 505 recodified from former 306 and amended for clarity.

Section 505.D recodified from former 306.C and amended per public comment.

Section 505.E added to create consistency with other regulations.

#### **506. Job Descriptions.**

Section 506 recodified from former 305.E and amended to create consistency with other regulations.

#### **507. Orientation (II).**

Section 507 recodified from former 305.F and amended to reflect current terminology.

#### **508. Training.**

Section 508 recodified from 305 and amended to reflect current terminology and to create consistency with other regulations.

#### **509. Health Assessment.**

Section 509 added to create consistency with other regulations.

**SECTION 600 – REPORTING** added to create consistency with other regulations.

#### **601. Incidents.**

Section 601 recodified from former 310 and amended to reflect current terminology, to add clarity to the reporting requirements, and to create consistency with other regulations.

#### **602. Reportable Diseases and Infections.**

Section 602 recodified from former Section 409 and amended to create consistency with other regulations.

#### **603. Closure and Zero Census.**

Section 603 added to create consistency with other regulations.

**SECTION 700 – PATIENT RECORDS** added to create consistency with other regulations.

#### **701. Content.**

Section 701 recodified from former 401 and amended to reflect current terminology and to create consistency with other regulations. 701.B.3 amended per public comment.

#### **702. Authentication.**

Section 702 added to create consistency with other regulations.

#### **703. Individual Plan of Care.**

Section 703 recodified from former 402 and amended to reflect current terminology and to create consistency with other regulations.

#### **704. Record Maintenance.**

Section 704 recodified from former 403 and amended to reflect current terminology and create consistency with other regulations.

#### **705. Record Retention.**

Section 705 added to create consistency with other regulations.

**SECTION 800 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 900 – PATIENT CARE AND SERVICES** added to create consistency with other regulations.

#### **901. Dietary Services.**

Section 901 recodified from former 406 and amended to reflect current terminology and to create consistency with other regulations.

#### **902. Laboratory Services. (II)**

Section 902 recodified from former 407 and amended to reflect current terminology and to create consistency with other regulations.

#### **903. Social Services.**

Section 903 recodified from former 408 and amended to create consistency with other regulations.

#### **904. Home Dialysis.**

Section 904 recodified from former 411 and amended to reflect current terminology and to create consistency with other regulations.

#### **905. Transfer Agreement.**

Section 905 recodified from former 307 and amended to reflect current terminology and consistency with other regulations.

**SECTION 1000 – PATIENT’S RIGHTS AND ASSURANCES** added to create consistency with other regulations.

Section 1000 recodified from former 308. Also amended former 308.A.3, recodified to Section 1000.A.3 per public comment.

**SECTION 1100 – PATIENT PHYSICAL EXAMINATIONS** added to create consistency with other regulations.

**SECTION 1200 – MEDICATION MANAGEMENT** added to create consistency with other regulations.

#### **1201. General.**

Section 1201 recodified from 405 and amended to reflect current terminology and to create consistency with other regulations.

**1202. Medication Orders.**

Section 1202 added to create consistency with other regulations.

**1203. Medicine Storage.**

Section 1203 recodified from former 405.C,D,E,G,H and amended to create consistency with other regulations.

**SECTION 1300 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS** added to create consistency with other regulations.

**1401. Disaster Preparedness. (II)**

Section 1401 recodified from former 309 and amended to create consistency with other regulations.

**1402. Continuity of Essential Services.**

Section 1402 added to create consistency with other regulations.

**SECTION 1500 – FIRE PREVENTION** added to create consistency with other regulations.

**1501. Arrangements for Fire Department Response and Protection (I).**

Section 1501 added to create consistency with other regulations.

**1502. Tests and Inspections. (II)**

Section 1502 added to create consistency with other regulations.

**1503. Fire Response Training. (I)**

Section 1503 added to create consistency with other regulations.

**1504. Fire Drills.**

Section 1504 recodified from former 309.B and amended to reflect current terminology.

**1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers.**

Section 1505 added to create consistency with other regulations.

**SECTION 1600 – MAINTENANCE** added to create consistency with other regulations.

**1601. General.**

Section 1601 recodified from former 2006 and amended to show current terminology and to require the facility's documentation of preventive maintenance and compliance with specified codes.

**1602. Equipment Maintenance.**

Section 1602 recodified from former Sections 2301 and 407.C.

**1700 – INFECTION CONTROL** added to create consistency with other regulations.

**1701. Staff Practices.**

Section 1701 added to create consistency with other regulations.

**1702. Committee.**

Section 1702 recodified from former 409.A and amended to create consistency with other regulations.

**1703. Tuberculosis Risk Assessment and Screening.**

Section 1703 recodified from former 305.A and amended to current CDC and Departmental TB guidelines to create consistency with other regulations.

**1704. Staff Hepatitis Screening.**

Section 1704 recodified from former 305 and amended to align with CDC practices and worded according to TB Control's suggestion, creating consistency with other regulations.

**1705. Patient Hepatitis Screening.**

Section 1705 recodified from former 409.D and amended to align with CDC practices.

**1706. Isolation Facilities.**

Section 1706 recodified from former 409.E and amended to reflect current terminology and create consistency with other regulations.

**1707. Housekeeping. (II)**

Section 1707 recodified from former 2007 and 409.H and amended to reflect current terminology and to create consistency with other regulations.

**1708. Linen.**

Section 1708 recodified from former 409.F and amended to create consistency with other regulations.

**1709. Refuse and Waste Disposal. (II)**

Section 1709 recodified from former 2009 and 409.G and amended to create consistency with other regulations.

#### **1710. Outside Areas.**

Section 1710 recodified from former 2010 and amended to create consistency with other regulations.

#### **1711. Toxic and Hazardous Substances.**

Section 1711 recodified from former 410 and amended to create consistency with other regulations.

**SECTION 1800 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 1900 – DESIGN AND CONSTRUCTION** added to create consistency with other regulations.

#### **1901. General.**

Section 1901 recodified from former 2001 and amended to reflect current terminology.

#### **1902. Code and Standards.**

Section 1902 recodified from former 2002 and amended to create consistency with other regulations.

#### **1903. Submission of Plans and Specifications.**

Section 1903 recodified from former 2003 and amended to create consistency with other regulations.

#### **1904. Location.**

Section 1904 recodified from former 2004 and amended to create consistency with other regulations.

**Former PART II Physical Plant** removed to create consistency with other regulations.

**Former Chapter 20 Design and Construction** remove to create consistency with other regulations.

Former Section 2001 recodified to 1901 and amended.

Former Section 2002 recodified to 1902 and amended.

Former Section 2003 recodified to 1903 and amended.

Former Section 2004 recodified to 1904 and amended.

Former Section 2005 recodified to 2601 and amended.

Former Section 2006 recodified to 1601 and amended.

Former Section 2007 recodified to 1707 and amended.

Former Section 2008 recodified to 2300 and amended.

Former Section 2009 recodified to 1709 and amended.



Former Section 2010 recodified to 1710 and amended.

**SECTION 2000 – FIRE PROTECTION, PREVENTION, AND LIFE SAFETY** recodified from former Section 2102 and amended to create consistency with other regulations.

**FORMER CHAPTER 21 Fire Protection and Prevention** removed to create consistency with other regulations.

Former Section 2101 recodified to proposed section 1505 and amended.

Former Section 2102 recodified to proposed section 2000 and amended.

Former Section 2103 recodified to proposed section 2101 and amended.

**SECTION 2100 – GENERAL CONSTRUCTION** recodified from former Sections 2103 and amended to create consistency with other regulations.

**Former CHAPTER 22 Mechanical Requirements** removed to create consistency with other regulations.

Former Section 2201 recodified to 2500 and amended.

Former Section 2202 recodified to 2401 and amended.

Former Section 2203 recodified to 2402 and amended.

**SECTION 2200 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**Former CHAPTER 23 Preventive Maintenance of Equipment** removed to create consistency with other regulations.

Former Section 2301 recodified to 1602 and amended.

**SECTION 2300 – WATER SUPPLY** recodified from former 2008.

**Former CHAPTER 24 General** recodified to 2700.

**SECTION 2400 – ELECTRICAL** added to create consistency with other regulations.

**2401. General.**

Section 2401 recodified from former 2202 and amended to create consistency with other regulations.  
Section 2402.B.2 amended per public comment.

**2402. Lighting and Electrical Services.**

Section 2402 recodified from former 2203 and amended to create consistency with other regulations.

**SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)** added to create consistency with other regulations.

Section 2500 recodified from former 2103 and amended to create consistency with other regulations.

**SECTION 2600 – PHYSICAL PLANT** added to create consistency with other regulations.

**2601. General.**

Section 2601 recodified from former 2005 and amended to create consistency with other regulations.

**2602. Ground Fault Protection.**

Section 2602 added to create consistency with other regulations.

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

**Former APPENDIX A** – removed due to contents being incorporated elsewhere in this regulation.

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

Interested persons may submit comment(s) on the proposed amendments to Health Regulation; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). Comments may also be submitted electronically on the Public Comments for Health Regulations page at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/PublicComments/>. To be considered, The Department must receive the comment(s) by 5:00 p.m. on December 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 January 9, 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/Agenda>.

Copies of the proposed amendments for public comment as published in the *State Register* on November 22, 2019, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Health Facilities Licensing Regulatory Update and scroll down to the proposed amendments of R.61-97. A copy can also be obtained by emailing [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov).

**Preliminary Fiscal Impact Statement**

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

**Statement of Need and Reasonableness**

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

DESCRIPTION OF REGULATION: 61-97, Standards for Licensing Renal Dialysis Facilities

Purpose: The Department proposes amending R.61-97 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-7-260 et seq.

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

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other miscellaneous requirements for licensure.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-97 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for renal dialysis facilities. There are no anticipated effects on the environment.

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

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

**Statement of Rationale:**

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

The Department of Health and Environmental Control is proposing amendments to R.61-97. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other miscellaneous requirements for licensure.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-97. Standards for Licensing Renal Dialysis Facilities.

Statutory Authority: 1976 Code Sections ~~44-39-2044~~-7-260 et seq.

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**PART I**  
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**CHAPTER I**  
***Definitions and Interpretations***

**SECTION 100 – DEFINITIONS AND LICENSURE**

**SECTION 101. Definitions.**

For the purpose of these standards, the following definitions shall apply:

A. Abuse. Physical abuse or psychological abuse.

1. Physical Abuse. The act of intentionally inflicting or allowing infliction of physical injury on a patient by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that of a therapeutic procedure prescribed by a licensed physician or other legally authorized healthcare professional. Physical abuse does not include altercations or acts of assault between patients.

2. Psychological Abuse. The deliberate use of any oral, written, or gestured language or depiction that includes disparaging or derogatory terms to a patient or within the patient's hearing distance, regardless of the patient's age, ability to comprehend, or disability, including threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

B. Administering Medication. The acts of preparing and giving a single dose of a medication to the body of a Patient by injection, ingestion, or any other means in accordance with the orders of a physician or other Authorized Healthcare Provider.

C. Administrator. The staff member designated by the Licensee to have the authority and responsibility to manage the Facility and oversees all functions and activities of the Facility.

D. Annual. A time period that requires an activity to be performed at least every twelve (12) months.

E. Assessment. A procedure for determining the nature and extent of the problems and needs of a Patient, or potential Patient, to ascertain if the Facility can adequately address those problems and needs, and to secure information for use in the development of the Individual Plan of Care.



F. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina as a physician, advanced practice registered nurse, or physician assistant to provide specific treatments, care, or services to Patients.

G. Consultation. A meeting with a licensed Facility and individuals authorized by the Department to provide information to Facilities to enable/encourage Facilities to better comply with the regulations.

A.H. Continuous Ambulatory Peritoneal Dialysis. A continuous manual exchange of dialysate into and from the peritoneal cavity (usually every four to six hours).

B.I. Continuous Cycling Peritoneal Dialysis. The use of a machine to warm and cycle the dialysate in and out of the peritoneal cavity (usually every four hours).

J. Controlled Substance. A medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act or the South Carolina Controlled Substances Act.

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

L. Designee. A staff member designated by the Administrator to act on his or her behalf.

C.M. Dialysis. A process by which dissolved substances are removed from a ~~patient's~~ Patient's body by diffusion from one fluid compartment to another across a semipermeable membrane.

D.N. Dietitian. An ~~person~~individual who is registered by the Commission on Dietetic Registration, currently licensed as a Dietitian by the South Carolina Department of Labor, Licensing and Regulation.

O. Direct Care Staff. Those individuals who are employees (full- and part-time) of the Facility providing direct treatment, care, and services to Patients, and those individuals contracted to provide treatment, care, and services to Patients.

P. Discharge. The point at which treatment, care, and services in a Facility are terminated and the Facility no longer maintains active responsibility for the treatment, care, and services of the Patient.

E.Q. End-Stage Renal Disease (~~ESRD~~). That stage of renal impairment that appears irreversible and permanent and requires a regular course of dialysis or kidney transplantation to maintain life.

F.R. ~~ESRD~~ End-Stage Renal Disease Service. The type of care or services furnished to an ~~ESRD~~End-Stage Renal Disease ~~patient~~Patient. Such types of care are: transplantation service; ~~dialysis~~Dialysis service and ~~self-dialysis and home dialysis~~Home Dialysis training.

S. Exploitation. 1) Causing or requiring a Patient to engage in an activity or labor that is improper, unlawful, or against the reasonable and rational wishes of a patient. Exploitation does not include requiring a patient to participate in an activity or labor that is a part of a written Individual Plan of Care or prescribed or authorized by the patient's attending physician; 2) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a patient by an individual for the profit or advantage of that individual or another individual; or 3) causing a patient to purchase goods or services for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the patient through cunning arts or devices that delude the patient and cause him or her to lose money or other property.

T. Health Assessment. An evaluation of the health status of a staff member or volunteer by a Physician, other Authorized Healthcare Provider, or a registered nurse. A registered nurse may complete the Health Assessment pursuant to standing orders approved by a Physician as evidenced by the Physician's signature. The standing orders shall be reviewed annually by the physician, with a copy of the review maintained at the Facility.

~~G.U. Home Dialysis.~~ Dialysis performed by a ~~patient~~ Patient and/or individuals who assist Patients at home. The Patient and individuals who assist patients are trained and supervised by licensed nurses to do dialysis treatments on their own.

V. Home Dialysis Training. A program that trains and provides support services to End-Stage Renal Disease Patients and individuals who assist them in performing Home Dialysis with little or no professional assistance.

W. Individual Plan of Care. A documented regimen of appropriate care and services or written action plan prepared by the Facility for each Patient, based on the Patient's needs and preferences, and which is to be implemented for the benefit of the Patient.

~~H. Inpatient Dialysis: Dialysis which, because of medical necessity, is furnished to an ESRD patient on a temporary inpatient basis in a hospital.~~

X. Interdisciplinary Team. A group designated by the Facility to provide or supervise care and services provided by the facility. The group may include the following persons: physician or other Authorized Healthcare Provider, licensed nurse, dietary, social services, and direct care staff members.

Y. Inspection. A visit by Department representatives for the purpose of determining compliance with current statutes and regulations.

Z. Investigation. A visit by Department representatives to a licensed Facility or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to statutory and regulatory compliance.

AA. Legend Drug.

1. A drug when, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

\_\_\_\_\_ a. "Caution: Federal law prohibits dispensing without prescription";

\_\_\_\_\_ b. "Rx only" or;

\_\_\_\_\_ 2. A drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

\_\_\_\_\_ 3. Any drug products considered to be a public health threat, after notice and public hearing as designated by the S.C. Board of Pharmacy; or

\_\_\_\_\_ 4. Any prescribed compounded prescription drug within the meaning of the S.C. Pharmacy Practice Act.

BB. License. The authorization to operate a Facility as defined in this regulation and as evidenced by a current certificate issued by the Department to a Facility.

~~I.~~CC. Licensed Capacity. The number of dialysis stations that the ~~center or facility~~ Facility is authorized to operate to include chronic hemodialysis and home hemodialysis training stations.

~~J.~~DD. Licensed Practical Nurse. ~~Person licensed by the South Carolina State Board of Nursing as a licensed practical nurse. A person to whom the South Carolina Board of Nursing has issued a license as a registered nurse or licensed practical nurse, or a person granted multi-state licensing privileges by the South Carolina Board of Nursing and who may practice nursing in any Facility or activity licensed by the Department subject to the provisions and conditions as indicated in the Nurse Licensure Compact Act.~~

~~K.~~EE. Licensee. The individual, ~~agency, group or corporation, organization, or public entity that has received a license to provide care and services at the Facility and with whom rests in which~~ the ultimate responsibility ~~for compliance with the current regulation and authority for the conduct of the renal dialysis facility is vested.~~

~~L. Licensing Agency: The Department of Health and Environmental Control.~~

FF. Medical Director. A physician currently licensed in South Carolina who is responsible for the medical direction of the End-Stage Renal Disease Services.

GG. Medication. A substance that has therapeutic effects including, but not limited to, Legend, Non-Legend, herbal products, over-the counter, nonprescription, vitamins, and nutritional supplements.

HH. Neglect. The failure or omission of a direct care staff member to provide the care, goods, or services necessary to maintain the health or safety of a Patient including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Failure to provide adequate supervision resulting in harm to patients, including altercations or acts of assault between patients, may constitute neglect. Neglect may be repeated conduct or a single incident that has produced or could result in physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect.

II. Non-Legend Drug. A drug that may be sold without a prescription and that is labeled for use by the consumer in accordance with state and federal law.

~~—M. Outpatient Dialysis: Dialysis furnished on an outpatient basis at a renal dialysis center or facility. Outpatient Dialysis includes staff assisted dialysis and self dialysis.~~

~~N.~~JJ. Patient. A person ~~admitted to and receiving care in a facility~~ who receives care, treatment, or services from a Facility licensed by the Department.

~~O. Patient Care Technician: A non-licensed person who provides direct patient care.~~

KK. Physical Examination. An examination of a Patient that meets the requirements set forth in Section 1100 of this regulation by an Authorized Healthcare Provider.

LL. Quality Improvement Program. The process used by a Facility to examine its methods and practices of providing care and services, identify the ways to improve its performance, and take actions that result in higher quality of care and services for the Facility's Patients.

MM. Quarterly. A time period that requires an activity to be performed every three (3) months.

~~P. Registered Nurse: Person licensed by the South Carolina State Board of Nursing as a registered nurse.~~

NN. Registered Health Information Administrator. An individual who holds a professional certification as a Registered Health Information Administrator from the American Health Information Management Association.

OO. Registered Health Information Technician. An individual who holds a professional certification as a Registered Health Information Technician from the American Health Information Management Association in the United States.

PP. Renal Dialysis Equipment Technician. An individual who cleans, sterilizes, sets up, monitors, adjusts, and tests dialysis machines and accessory equipment used in the treatment of Patients with End-Stage Renal Disease.

~~Q-QQ. Renal Dialysis Facility (Facility): An outpatient Facility which offers staff-assisted Dialysis or self-dialysis and Home Dialysis Training and support services to end-stage renal disease patients.~~  
End-Stage Renal Disease patients. A facility may be composed of one or more fixed buildings, mobile units, or a combination.

RR. Revocation of License. An action by the Department to cancel or annul a Facility License by recalling, withdrawing, or rescinding the Facility's authorization to operate.

~~— R. Self Dialysis and Home Dialysis Training: A program that trains ESRD patients to perform self-dialysis or home dialysis with little or no professional assistance, and trains other individuals to assist patients in performing self-dialysis or home dialysis.~~

~~— S. Self Dialysis Unit: A unit that is part of an approved renal transplantation center, renal dialysis center, or renal dialysis facility, and furnishes self-dialysis services.~~

~~T-SS. Social Worker: A person licensed as a social worker by the South Carolina Board of Social Work Examiners.~~

~~— U. Staff Assisted Dialysis: Dialysis performed by qualified staff of the center or facility.~~

TT. Station. An individual Patient treatment area that provides sufficient space to accommodate the dialysis equipment and supplies needed for Dialysis. Includes Stations specifically for chronic Hemodialysis, Home Hemodialysis Training, and Peritoneal Dialysis.

UU. Suspension of License. An action by the Department requiring a Facility to cease operations for a period of time or to require a Facility to cease admitting Patients, until such time as the Department rescinds that restriction.

VV. Tuberculosis Risk Assessment. An initial and ongoing evaluation of the risk for transmission of Mycobacterium tuberculosis in a particular healthcare setting.

## **SECTION 102. Interpretations Licensure. (II)**

~~A. Except as outlined in B, below, no~~No person, partnership, corporation, private or public organization, political subdivision or other governmental agency shall establish, conduct or operate, maintain, or represent itself (advertise or market) as a renal dialysis facility~~Renal Dialysis Facility in South Carolina~~ without first

obtaining a ~~license~~License from the Department. The Facility shall not admit Patients prior to the effective date of the License. When it has been determined by the Department that treatment, care, or services are being provided at a location, and the owner has not been issued a license from the Department to provide such treatment, care and services the owner shall cease operation immediately and ensure the safety, health, and well-being of the Patients. Current or previous violations of South Carolina Code or Department regulations may jeopardize the issuance of a License for the Facility or the licensing of any other Facility, or addition to an existing Facility that is owned and/or operated by the Licensee. The Facility shall provide only the treatment, care, and services it is licensed to provide pursuant to the definition in Section 101.QQ. (I)

B. A ~~renal dialysis facility license~~Renal Dialysis Facility License shall not be required for, nor shall such a ~~license~~License be issued to:

1. Facilities operated by the federal government.

2. Renal dialysis services provided in licensed hospitals (such services remain within the purview of R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries).

~~—C. A license is issued pursuant to the provision of Sections 44-39-40 through 44-39-80 of the South Carolina Code of Laws of 1976, as amended, and the standards promulgated thereunder and shall be posted in a conspicuous place in a public lobby or waiting room. The issuance of a license does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well being of any occupant of a facility. A license is not assignable or transferable and is subject to revocation by the Department for failure to comply with the laws and standards of the State of South Carolina.~~

~~—D. Any renal dialysis facility which is in operation at the time of promulgation of any applicable rules or regulations shall be given a reasonable time, not to exceed one year from date of such promulgation, within which to comply with such rules and regulations.~~

~~E. Effective Date and Term of License: A license shall be effective for a 12 month period following the date of issue and shall expire one year following such date; however, a facility that has not been inspected during that year may continue to operate under its existing license until an inspection is made.~~

~~F. Separate Licenses: Separate licenses are required for facilities not maintained on the same premises. Separate licenses may be issued for facilities maintained in separate buildings on the same premises.~~

~~G. Licensing Fees: Each applicant shall pay an annual license fee prior to issuance of the license. The annual fee shall be two hundred dollars for the first ten stations and twenty dollars for each additional station.~~

~~H. Inspections: Each facility submitting an application for licensing or re licensing shall be inspected prior to initial licensure and at least annually by authorized representatives of the Department. All licensed and prospective licensed facilities are subject to inspection at any time. All facilities to which these requirements apply shall permit entrance to all properties and access to every area, object and records and reports by representatives of the Department.~~

~~I. Initial License: A new facility, or one that has not been continuously licensed under these or prior Standards, shall not provide renal dialysis services until it has been issued an initial license. Appendix A sets forth the prerequisites for initial license.~~

~~J. Noncompliance: When noncompliances with the Licensing Standards are detected, the applicant or licensee will be notified of the violations and at the same time requested to provide information as to how and when such items will be corrected. If an item of noncompliance is of a serious nature and is not promptly corrected, a penalty may be invoked or a license may be denied, suspended or revoked.~~

~~K. Exceptions to Licensing Standards: The Department reserves the right to make exceptions to these Standards where it is determined that the health and welfare of the community require the services of the facility and that the exception, as granted, will have no significant impact on the safety, security or welfare of the facility's occupants.~~

~~L. Change of License: A facility shall request issuance of an amended license, by application to the Department, prior to any of the following circumstances:~~

- ~~1. Change of ownership by purchase or lease.~~
- ~~2. Change of facility's name or address.~~
- ~~3. Addition of a renal dialysis station or any part thereof.~~

C. Compliance. An initial License shall not be issued to a proposed Facility until the Licensee applicant has demonstrated to the Department that the proposed Facility is in substantial compliance with this regulation. In the event a Licensee who already has a Facility or activity licensed by the Department makes application for another Facility or an increase in Licensed Capacity, the currently licensed Facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a License to the proposed Facility or an amended License to the existing Facility. A copy of licensing standards shall be maintained at the Facility and accessible to all staff members and volunteers. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations.

D. Licensed Dialysis Stations. No Facility that has been authorized to provide a set number of licensed stations, as identified on the face of the License, shall exceed the Licensed Capacity. No Facility shall establish new care or services or occupy additional Stations or renovated space without first obtaining authorization from the Department.

E. Issuance and Terms of License.

1. The License issued by the Department shall be posted in a conspicuous place in a public area within the facility.

2. The issuance of a license does not guarantee adequacy of individual care, services, personal safety, fire safety, or the well-being of any patient or occupant of a facility.

3. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this state.

4. A license shall be effective for a specified facility, at a specific location, for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status.

5. Facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, shall not be considered as dividing otherwise adjoining or contiguous property. For facilities owned by the same entity, separate

licenses are not required for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

6. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.

F. Facility Name. No proposed Facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in South Carolina.

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

H. The application for initial licensure shall include:

1. The application shall set forth the full name and address of the Facility for which the License is sought and of the owner in the event his or her address is different from that of the Facility, and the names of the persons in control of the Facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with this regulation;

2. The applicant's oaths assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation;

3. Proof of ownership of real property in which the Facility is located, or lease agreement allowing the Licensee to occupy the real property in which the Facility is located;

4. Verification of Administrator's qualifications;

5. Name of director of nursing services; and

6. Number of renal dialysis Stations.

I. Licensing Fees. Each applicant shall pay an Annual License fee prior to issuance of a License. The Annual fee shall be two hundred dollars (\$200.00) for the first ten (10) Stations and twenty dollars (\$20.00) for each additional Station. Annual licensing fees shall also include any outstanding inspection fees. All fees are non-refundable, shall be made payable by check or credit card to the Department or online, and shall be submitted with the application. (II)

J. Licensing Late Fee. Failure to submit a renewal application and fee to the Department by the license expiration date shall result in a late fee of seventy-five dollars (\$75.00) or twenty-five percent (25%) of the licensing fee amount, whichever is greater, in addition to the licensing fee. Failure to submit the licensing fee and licensing late fee to the Department within thirty (30) days of the license expiration date shall render the Facility unlicensed. (II)

K. License Renewal. For a License to be renewed, applicants shall submit a complete and accurate application on a form prescribed and furnished by the Department, shall pay the License fee, and shall not have pending enforcement actions by the Department. If the License renewal is delayed due to enforcement

actions, the renewal License shall be issued only when the matter has been resolved by the Department, or when the adjudicatory process is completed, whichever is applicable.

L. Amended License. A Facility shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

1. Addition of Renal Dialysis Station or any part thereof; including:

a. Chronic Hemodialysis Stations;

b. Home Hemodialysis Training Stations; or

c. Peritoneal Stations;

2. Change of Facility location from one geographic site to another;

3. Change in Facility name or address (if notified by post office the address has changed)

M. Change of Licensee. A Facility shall request issuance of a new License by application to the Department prior to any of the following circumstances:

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

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

N. Variance. A variance is an alternative method that ensures the equivalent level of compliance with the standards in this regulation. The Facility may request a variance to this regulation in a format as determined by the Department. Variances shall be considered on a case by case basis by the Department. The Department may revoke issued variances as determined to be appropriate by the Department.

### **SECTION 103. Penalties**

~~Facilities shall be subject to a penalty for violating Licensing Regulations (Sections 44-39-40 through 44-39-80 and 44-7-320 of the South Carolina Code of Laws of 1976, as amended). When upon inspection or investigation the Department determines that a facility is in violation of any statutory provision, rule or regulation relating to the operation or maintenance of such facility except with respect to violations determined to have only a minimal relationship to health or safety, the following conditions apply:~~

~~A. Class I violations are those which the Department determines present an imminent danger to the patients of the facility or a substantial probability that death or serious physical harm could result there from. A physical condition, one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation shall exist after expiration of said time shall be considered a subsequent violation.~~

~~B. Class II violations are those other than Class I violations, which the Department determines have a direct or immediate relationship to the health, safety or security of the facility's patients. The citation of a~~



~~Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation shall exist after expiration of said time shall be considered a subsequent violation.~~

~~C. Class III violations are those which are not classified as serious in these regulations or those which are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation shall exist after expiration of said time shall be considered a subsequent violation.~~

~~D. Class I and II violations are indicated by notation after each applicable section, e.g., (I) or (II). Violations of sections which are not annotated in that manner will be considered as Class III violations. As provided in Section 44-7-320 of the Code, the department may deny, suspend, or revoke licenses or assess a monetary penalty for violations of provisions of law or departmental regulations. The department shall exercise discretion in arriving at its decision to take any of these actions. The department will consider the following factors: specific conditions and their impact or potential impact on health, safety or welfare; efforts by the facility to correct; overall conditions; history of compliance; any other pertinent conditions. If a decision is made to assess monetary penalties, the following schedule will be used as a guide to determine the dollar amount.~~

Frequency of violation of standard within a 24 month period	-	-	-
-	MONETARY PENALTY RANGES		
-	-	-	-
	Class I	Class II	Class III
1 <sup>st</sup>	\$ 200-1000	\$ 100-500	\$ 0
2 <sup>nd</sup>	500-2000	200-1000	100-500
3 <sup>rd</sup>	1000-5000	500-2000	200-1000
4 <sup>th</sup>	5000	1000-5000	500-2000
5 <sup>th</sup>	5000	5000	1000-5000
6th and more	5000	5000	5000

## ***CHAPTER 2***

### ***Licensing Procedures***

#### **SECTION 201. Application.**

~~— A. Applicants for a license shall file applications under oath annually with the Department upon forms provided by the Department, and shall pay an annual license fee. The application shall set forth the following:~~

The application shall set forth the following:

- ~~— 1. Name, address, and telephone number of facility;~~
- ~~— 2. Name and address of licensee;~~
- ~~— 3. Names of all parties with at least five percent ownership;~~
- ~~— 4. Names of operator(s) and/or governing authority;~~
- ~~— 5. Name of chief executive officer;~~

- ~~— 6. Numerical composition of medical and support staff;~~
- ~~— 7. Name of director of nursing services;~~
- ~~— 8. Number of renal dialysis stations;~~
- ~~— 9. Description of arrangements for emergency transportation of patients from the facility;~~
- ~~— 10. Name of hospital(s) with which a transfer agreement has been made, if applicable.~~

~~— B. The governing authority shall file application for a license for a new facility or for the renewal of a license for an existing facility. Applications for a new facility or additional stations shall be submitted at least 30 days prior to opening.~~

#### **~~SECTION 202. Requirements for Issuance of License.~~**

~~A. Upon receipt of an application for a license from a facility never before licensed, a representative of the Department shall make an inspection of that facility.~~

~~B. When it is determined that the facility is in compliance with the requirements of these Standards, and a properly completed application and licensing fee have been received by the Department, a license shall be issued.~~

~~C. No proposed facility shall be named nor may any existing facility have its name changed to the same or similar name as a facility licensed in the State. If it is part of a “chain operation” it shall then have the area in which it is located as part of its name.~~

#### **~~SECTION 203. Termination of License.~~**

~~— A license is not assignable or transferable and is subject to revocation at any time by the Department for failure to comply with laws and standards of the State of South Carolina. When a licensed facility ceases operation, the license shall be returned to the Department within 10 days.~~

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

#### **201. General.**

The Department shall utilize Inspections, Investigations, Consultations, and other pertinent documentation regarding a proposed or licensed Facility in order to enforce this regulation.

#### **202. Inspections and Investigations.**

A. A Facility shall undergo Inspection by the Department prior to initial licensing and is subject to subsequent Inspections as deemed appropriate by the Department. (I)

B. The Facility shall allow all individuals authorized by South Carolina law to enter the Facility for the purpose of Inspection and/or Investigation and granted access to all properties and areas, objects, requested records, and documentation at the time of the Inspection or Investigation. The Department shall have the authority to require the Facility to make photocopies of those documents required in the course of Inspections or Investigations. Photocopies shall be used only for purposes of enforcement of regulations

and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. The physical areas of Inspections and Investigations shall be determined by the Department based on the potential impact or effect upon Patients. (I)

C. When there is noncompliance with the licensing standards, the Facility shall submit an acceptable plan of correction in a format determined by the Department. The plan of correction shall be signed by the Administrator and returned by the date specified on the report of Inspection or Investigation. The plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

D. The Facility shall make available to the public copies of reports of Inspections or Investigations conducted by the Department, including the Facility response, upon written request with redactions of names of individuals in the report as provided by S.C. Code Sections 44-7-310 and 44-7-315.

E. The Facility shall pay a fee of three hundred fifty dollars (\$350.00) plus twelve dollars (\$12.00) per licensed Station for initial and routine Inspections. The fee for Station increase Inspections and follow-up inspections is two hundred dollars (\$200.00) plus twelve dollars (\$12.00) per licensed Station.

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

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

### **203. Consultations.**

Consultations may be provided by the Department as requested by the Facility or as deemed appropriate by the Department.

## ***CHAPTER 3*** ***Governing Authority and Management***

### **~~SECTION 301. General.~~**

~~—Every facility shall be organized, equipped, manned and administered to provide adequate care for each person admitted.~~

### **~~SECTION 302. Governing Authority.~~**

~~—A. The governing board, or the owner, or the person or persons designated by the owner as the governing authority shall be the supreme authority responsible for the management control of the facility and shall not:~~

~~——1. Permit, aid or abet the commission of any unlawful act relating to the securing of a certificate of need or the operation of the facility; and/or~~

~~——2. With the exception of abusive or disruptive patients, refuse to admit and treat, on the basis of medical need, alcohol and substance abusers, alcoholics, and mentally ill or persons with intellectual disability solely because of the alcoholism, mental illness or intellectual disability.~~

~~—B. A written set of bylaws or other appropriate policies and procedures for operation of the facility shall be formulated by the governing authority. These shall: (H)~~

~~——1. State the purpose of the facility;~~

~~——2. Specify by name the person to whom responsibility for operation and maintenance of the facility is delegated and methods established by the governing authority for holding such individual responsible;~~

~~——3. Provide for at least annual meetings of the governing authority;~~

~~——4. Provide for a policies and procedures manual which is designed to ensure professional and safe care for the patients to include but not limited to:~~

~~——a. Admission criteria;~~

~~——b. Rights and responsibilities of patients;~~

~~——c. Patient grievance procedures;~~

~~——d. Contamination prevention procedures;~~

~~——e. Personnel training requirements;~~

~~——f. Reuse of “kidney”.~~

~~——5. Provide for annual reviews and evaluations of the facility’s policies, procedures, management and operation.~~

~~——6. Provide for a facility wide quality assurance program to evaluate the provision of patient care. The program shall have a written plan of implementation and be continuous with annual reviews.~~

### **~~SECTION 303. Administrator.~~**

~~—The full time administrator shall be selected by the governing authority and shall be responsible for the management and administration of the facility and shall see that the bylaws and amendments thereto are complied with. The Director of Nursing may serve as the administrator. Any change in the position of the administrator shall be reported immediately by the governing authority to the Department in writing. An individual shall be appointed to act in the absence of the administrator. The administrator must hold at least a baccalaureate degree or have a minimum of an associate degree in a health related field with at least two years experience in ESRD within the past five years. (H)~~

#### **SECTION 304. Administrative Records.**

~~—The following essential documents and references shall be on file in the administrative office of the facility:~~

- ~~—A. Appropriate documents showing control and ownership;~~
- ~~—B. Bylaws, policies and procedures of the governing authority;~~
- ~~—C. Minutes of the governing authority meeting if applicable;~~
- ~~—D. Minutes of the facility's professional and administrative staff meetings;~~
- ~~—E. A current copy of these regulations;~~
- ~~—F. Reports of inspections, reviews, and corrective actions taken related to licensure; and~~
- ~~—G. Contracts and agreements to which the facility is a party.~~

#### **SECTION 305. Personnel.**

~~—Qualified personnel shall be employed in sufficient numbers to carry out the functions of the facility. The licensee shall obtain written applications for employment from all employees. Such applications shall contain accurate information as to education, training, experience, health and personal background of each employee. All applications for licensed personnel shall contain the South Carolina license number and/or current renewal number, if applicable. All employees shall have a physical examination within one year prior to employment and a test for the Hepatitis B surface antigen must be performed within one month prior to patient contact. (H)~~

~~—A. All new employees shall have a tuberculin skin test within three months prior to patient contact unless a previously positive reaction can be documented. The intradermal (Mantoux) method, using five tuberculin units of stabilized purified protein derivative (PPD) is to be used. Employees with tuberculin test reactions of 10mm or more of induration should be referred for appropriate evaluation. The two step procedure (one Mantoux test followed one week later by another) is advisable for initial testing for every new employee in order to establish a reliable baseline.~~

~~—1. Employees with reactions of 10mm and over to the initial tuberculin test, those who are documented with previously positive reactions, those with newly converted skin tests and those with symptoms suggestive of tuberculosis (e.g., cough, weight loss, night sweats, or fever, etc.) regardless of skin test status, shall be given a chest radiograph to determine whether tuberculosis disease is present. If tuberculosis is diagnosed, appropriate treatment should be given and contacts examined.~~

~~— 2. There is no need to conduct initial or routine chest radiographs on employees with negative tuberculin tests who are asymptomatic.~~

~~— 3. Employees with negative tuberculin skin tests shall have an annual tuberculin skin test and, depending upon the test results, shall be followed as described in this regulation.~~

~~— 4. No employee who is a positive reactor to the skin test shall have patient contact until certified non-infectious by a physician.~~

~~— 5. New employees who have a history of tuberculosis disease shall be required to have certification by a licensed physician that they are not contagious.~~

~~— 6. Employees who are known or suspected to have tuberculosis shall be required to be evaluated by a licensed physician and will not be allowed to return to work until they have been declared noncontagious.~~

~~— 7. Preventive treatment of new positive reactors without disease should be an essential component of the infection control program. It should be considered for all infected employees who have patient contact, unless specifically contraindicated. Routine annual chest radiographs of positive reactors do little to prevent tuberculosis and therefore are not a substitute for preventive treatment. Employees who complete treatment, either for disease or infection, may be exempt from further routine chest radiographic screening unless they have symptoms of tuberculosis.~~

~~— 8. Post exposure skin tests should be provided for tuberculin negative employees within 12 weeks after termination of contact for any suspected exposure to a documented case of tuberculosis.~~

~~— 9. A person shall be designated at each facility to coordinate tuberculosis control activities.~~

~~— B. Additional direct care personnel (R.N.'s, L.P.N.'s, or patient care technicians) shall be on duty to assure a ratio of 1 person to each 4 stations or fraction thereof. (I)~~

~~— C. Each equipment technician must have successfully completed a training course and demonstrated competence in supervising and/or providing maintenance and/or repair for dialysis and other related equipment. The programs must contain at least the following subject content: (II)~~

~~— 1. Prevention of Hepatitis via dialysis equipment;~~

~~— 2. The safety requirements of dialysate delivery systems;~~

~~— 3. Bacteriologic control;~~

~~— 4. Water quality standards;~~

~~— 5. Repair and maintenance of dialysis and other equipment.~~

~~— D. Personnel Records: A personnel record folder shall be maintained for each employee. The folder shall contain history and physicals, laboratory test results, resumes of training and experience, and current job description that reflects the employee's responsibilities and work assignments, orientation and periodic evaluations.~~

~~— E. Job Descriptions:~~

~~— 1. Written job descriptions which adequately describe the duties of every position shall be maintained.~~

~~— 2. Each job description shall include: position, title, authority, specific responsibilities and minimum qualifications.~~

~~— 3. Job descriptions shall be given to each employee when assigned to the position and when revised. The job description shall be reviewed jointly by the employee and supervisor annually with signatures and date of review.~~

~~— F. Orientation: (H)~~

~~— 1. Each facility shall have and execute a written orientation program to familiarize each new employee with the facility, its policies and job responsibilities.~~

~~— 2. For direct patient care personnel, the program shall contain at least the following subject content:~~

~~— a. fluid and electrolyte balance;~~

~~— b. kidney disease and treatment;~~

~~— c. dietary management;~~

~~— d. principles of dialysis;~~

~~— e. dialysis technology;~~

~~— f. venipuncture technique;~~

~~— g. care of dialysis patient;~~

~~— h. prevention of hepatitis and other infectious diseases.~~

~~— G. Continuing education in ESRD care shall be provided to all non-clerical employees at least quarterly. Inservice training may be provided by qualified facility staff.~~

~~— H. The physician director shall certify that each direct care person has completed the appropriate orientation and has demonstrated competence in the technical areas of employment. The physician director shall assure that each direct care person remain so competent.~~

#### **~~SECTION 306. Medical Staff.~~**

~~— A. If more than one physician practices in a facility, they shall be organized as a medical staff with appropriate bylaws approved by the governing body. The medical staff shall meet at least quarterly and minutes shall be maintained of such meetings.~~

~~— B. The governing body shall designate a qualified physician as director of the ESRD services. The appointment shall be made upon the recommendation of the facility's organized medical staff, if there is one. The physician director shall be responsible for the execution of patient care policies and medical staff bylaws and rules and regulations. (H)~~

~~—C. A qualified nephrologist or licensed physician with demonstrated experience in the care of patients with end stage renal disease shall be on call and physically available to patients within a reasonable time.~~  
(I)

#### **SECTION 307. Transfer Agreement.**

~~— Each renal dialysis facility shall have in effect a transfer agreement with one or more hospitals, for the provision of inpatient care and other hospital services. The transfer agreement shall provide the basis for effective working relationships under which inpatient hospital care or other hospital services are promptly available to the dialysis facility's patients when needed. The dialysis facility shall have in its files documentation from the hospital to the effect that patients from the dialysis facility will be accepted and treated in emergencies. There shall be reasonable assurances that:~~

~~—A. Transfer or referral of patients will be effected between the hospital and the dialysis facility whenever such transfer or referral is determined as medically appropriate by the attending physician, with timely acceptance and admission;~~

~~—B. There shall be interchange, within one working day, of medical and other information necessary or useful in the care and treatment of patients transferred to a hospital or any other inpatient medical facility, or to another ESRD facility;~~

~~—C. Security and accountability are assured for patient's personal effects.~~

#### **SECTION 308. Rights of Patients.**

~~—The governing body of the facility shall adopt written policies regarding the rights and responsibilities of patients and, through the administrator, shall be responsible for development of and adherence to procedures implementing such policies. These policies and procedures shall be made available to patients and any guardians, next of kin, sponsoring agency(ies), representative payees and to the public. The staff of the facility shall be trained and involved in the execution of such policies and procedures. (II)~~

~~—A. The patients' rights policies and procedures shall ensure that all patients in the facility are:~~

~~—— 1. fully informed of these rights and responsibilities, and of all rules and regulations governing patient conduct and responsibilities;~~

~~—— 2. fully informed of services available in the facility and of related charges;~~

~~—— 3. informed by a physician of their medical condition unless medically contraindicated (as documented in their medical records);~~

~~—— 4. afforded the opportunity to participate in the planning of their medical treatment and to refuse to participate in experimental research;~~

~~—— 5. be transferred or discharged only for medical reasons or for the patient's welfare or that of other patients, or for nonpayment of fees and given notice to ensure orderly transfer or discharge; and~~

~~—— 6. treated with consideration, respect and full recognition of their individuality and personal needs, including the need for privacy in treatment.~~



~~—B. The facility shall have written documentation by the patient that he/she has had his/her rights explained.~~

#### **~~SECTION 309. Disaster Preparedness: (H).~~**

~~—A. The facility shall have a posted plan for evacuation of patients, staff, and visitors in case of fire or other emergency.~~

~~—B. Fire Drills:~~

~~—1. At least one drill shall be held every three months to familiarize all employees with the drill procedure. Reports of the drills shall be maintained. Staff and patient participation shall be documented.~~

~~—2. Upon identification of procedural problems with regard to the drills, records shall show that corrective action has been taken.~~

#### **~~SECTION 310. Incident and Accident Reports.~~**

~~—A record of each accident or incident occurring in the facility, including medication errors and adverse drug reactions shall be prepared immediately. Accidents resulting in serious injury or death shall be reported, in writing, to the licensing agency within 10 days of the occurrence. (H)~~

~~—Accidents and incidents that must be recorded include but are not limited to:~~

~~—1. those leading to hospitalization;~~

~~—2. those leading to death;~~

~~—3. use of wrong dialyzer on patient;~~

~~—4. blood spills of more than 75 ml.;~~

~~—5. hemolytic transfusion reactions;~~

~~—6. reactions to dialyzers.~~

### **SECTION 300 – ENFORCEMENT ACTIONS**

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

When the Department determines that a Facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such Facility, the Department, upon proper notice to the Licensee, may deny, suspend, or revoke Licenses, or assess a monetary penalty, or both.

#### **302. Violation Classifications.**

Violation of standards in this regulation are classified as follows:

A. Class I violations are those that present an imminent danger to the health, safety, or well-being of the persons in the Facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a Facility may

constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations that have a negative impact on the health, safety or well-being of persons in the Facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in this regulation or those that are against the best practices. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

D. The notations “(I)” or “(II),” placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Failure to meet standards not so annotated are considered Class III violations.

E. In determining an enforcement action the Department shall consider the following factors:

1. Specific conditions and their impacts or potential impacts on health, safety, or well-being of the Patients including, but not limited to: deficiencies in medication management; critical waste water problems; housekeeping, maintenance, or fire and life safety-related problems that pose a health threat to the Patients; power, water, gas, or other utility and/or service outages; Patients exposed to air temperature extremes that jeopardize their health; unsafe condition of the building or structure; indictment of an administrator for malfeasance or a felony, which by its nature indicates a threat to the Patients; direct evidence of abuse, neglect, or exploitation; no staff available at the Facility with Patients present; unsafe procedures and/or treatment being practiced by staff; (I)

2. Repeated failure of the Licensee or Facility to pay assessed charges for utilities and/or services resulting in repeated or ongoing threats to terminate the contracted utilities and/or services; (II)

3. Efforts by the Facility to correct cited violations;

4. Overall conditions of the Facility;

5. History of compliance; and

6. Any other pertinent conditions that may be applicable to current statutes and regulations.

F. When imposing a monetary penalty, the Department may invoke S.C. Code Section 44-7-320(C) to determine the dollar amount or may utilize the following schedule:

<u>FREQUENCY OF VIOLATION</u>	<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>
<u>1<sup>st</sup></u>	<u>\$500-1,500</u>	<u>\$300-800</u>	<u>\$100-300</u>
<u>2<sup>nd</sup></u>	<u>1,000-3,000</u>	<u>500-1,500</u>	<u>300-800</u>

<u>3<sup>rd</sup></u>	<u>2,000-5,000</u>	<u>1,000-3,000</u>	<u>500-1,500</u>
<u>4<sup>th</sup></u>	<u>5,000</u>	<u>2,000-5,000</u>	<u>1,000-3,000</u>
<u>5<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>2,000-5,000</u>
<u>6<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>

## ***CHAPTER 4***

### ***Professional Care***

#### **SECTION 401. Patient Care and Professional Services.**

~~Written patient care policies relating to all areas of facility care shall be developed by the physician-director or medical staff and shall be approved by the governing body. They shall be reviewed at least yearly by a committee composed of a physician, RN, dietitian and social worker. Policy shall provide that the hours of dialysis shall be scheduled for patient convenience whenever feasible or possible. Policies shall discuss care of patients in medical emergencies, the kinds of emergencies they can handle, and when patient must seek referral. Every patient shall be under the care of a physician. Patients shall be under the care of a physician. Patients shall be instructed in procedures to follow during medical emergencies which might arise during hours when they are inside/outside the facility. (II)~~

#### **SECTION 402. Patient Care Plans.**

~~There shall be short term and long term care plans for each patient, developed by the professional team to ensure appropriate modality of care. The short term and long term care plans shall be developed within the first month of care. Such plans shall be based on the nature of the patient's needs based on prior medical workup.~~

~~A. The short term care plan shall reflect medical, psychological, social, and dietary needs, and stability of patients. It shall be reviewed at least monthly on unstable patients, every 6 months on stable patients and revised as necessary. There shall be documentation of patient or legal guardian involvement in the development of the short term care plan with the professional team.~~

~~B. The long term care plan shall be reviewed at least annually and include:~~

- ~~1. Diagnosis;~~
- ~~2. Type of treatment (Hemodialysis, CAPD, CCPD, self dialysis);~~
- ~~3. Medical plan for next year; and~~
- ~~4. Indication whether a candidate for transplantation or home dialysis.~~

~~C. There shall be at least monthly dietitian progress notes and at least quarterly social worker notes.~~

#### **SECTION 403. Medical Records.**

~~A. Medical Record System:~~

~~1. The facility shall maintain a medical record system designed to provide readily available information on each patient. The medical record system shall be under the supervision of a designated, qualified person. A member of the staff shall be designated to serve as supervisor of medical records services. If not a Registered Records Administrator (RRA) or Accredited Records Technician (ART), the staff member must receive consultation from RRA or ART. (II)~~

~~2. The medical records shall be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. All information shall be centralized in the patient's medical record. (II)~~

~~3. The facility shall maintain adequate facilities, equipment and space for record processing and statistical information. (II)~~

~~B. Medical Record Contents — Current medical records shall contain:~~

~~1. face sheet~~

~~a. identification data (name, DOB, sex);~~

~~b. diagnosis;~~

~~c. doctor's name and phone number;~~

~~d. family member to be contacted in case of emergency and phone number;~~

~~e. patient's address and phone number;~~

~~f. date of admission;~~

~~2. doctor's orders for at least one year. Standing orders shall be updated on an annual basis;~~

~~3. documentation of physician's visit, at least weekly, by either progress note or run (flow) sheet for at least one year (at least one month of the most current run sheets must be contained in the active file);~~

~~4. lab and x-ray reports;~~

~~5. annual history and physical;~~

~~6. social worker and dietary initial assessments, updates and progress notes for one year updates;~~

~~7. miscellaneous consultations, hospitalizations;~~

~~8. long-term care plan updated annually;~~

~~9. current short-term care plan;~~

~~10. nurses' progress notes each time of dialysis for one month;~~

~~11. nurse's initial admission assessment;~~

~~12. signed consent forms.~~

~~C. Medical records shall be completed within 30 days after discharge.~~

~~D. The administrator shall be responsible for safeguarding information in the medical record against loss, tampering or use by unauthorized persons.~~

~~E. Medical records shall be the property of the facility and shall not be removed from the premises wherein they are filed except by subpoena, court order or for valid medical reasons.~~

~~F. The length of time that medical records are to be retained is dependent upon the need for their use in continuing patient care and for legal, research or educational purposes. This length of time shall be not less than 10 years.~~

~~G. Should a facility cease operation, there shall be an arrangement for preservation of records to insure compliance with these regulations. The Department shall be notified, in writing, concerning the arrangements.~~

#### **SECTION 404. Nursing Services.**

~~Each facility shall have the following minimum staffing to provide services. (I)~~

~~1. A registered nurse shall serve as the director of nursing. The director must have at least 18 months of experience in clinical nursing with at least 6 months experience in care of patients with ESRD.~~

~~2. A registered nurse who shall serve as charge nurse.~~

~~3. At least one registered nurse shall be on duty during each patient shift for each 10 stations or portion thereof. The charge nurse may serve in this capacity.~~

#### **SECTION 405. Pharmaceutical Services.**

~~Pharmaceutical services shall be provided in accordance with accepted professional principles and federal, state and local laws and regulations.~~

~~—A. Emergency Drugs:~~

~~—1. Emergency Kit or Emergency Drugs. Each Renal Dialysis Facility shall maintain, upon the advice and written approval of the physician director, an emergency kit or stock supply of drugs and medicines for the use of the physician in treating the emergency needs of his patient. This kit or medicine shall be stored in such a manner as to prohibit its access by unauthorized personnel. If an emergency cart is utilized, a listing of contents by drawer shall be placed on the emergency cart to allow quick retrieval. Contents shall correspond with the inventory list. (I)~~

~~—2. Drug Reference Sources. Each Renal Dialysis Facility shall maintain reference sources for identifying and describing drugs and medicines. (II)~~

~~—B. Administering Drugs and Medicines. Drugs and medicines shall not be administered to individual patients or to anyone within or outside the facility unless ordered by a physician duly licensed to prescribe drugs. Such orders shall be in writing and signed personally by the physician who prescribes the drug or~~

medicine. All verbal or telephone orders shall be received by a registered nurse, licensed practical nurse, or a physician and shall be reduced to writing on the physician's order sheet with an indication as to the prescribing physician and who wrote the order. Telephone or verbal orders shall be signed and dated by the prescribing physician or designated physician(s) within 72 hours (a list of designated physicians shall be available at the facility). (I)

~~—C. Medicine Storage. Medicines and drugs maintained in the facility for daily administration shall be properly stored and safeguarded in enclosures of sufficient size and which are not accessible to unauthorized persons. Refrigerators used for storage of medications shall maintain an appropriate temperature as determined by the requirements established on the label of medications. A thermometer accurate to  $\pm 3$  degrees shall be maintained in these refrigerators. Only authorized personnel shall have access to storage enclosures. Narcotics and ethyl alcohol, if stocked, shall be stored under double locks and in accordance with applicable State and Federal laws. (I)~~

~~—D. Medicine Preparation Area. Medicines and drugs shall be prepared for administration in an area which contains a counter and a sink. This area shall be located in such a manner to prevent contaminations of medicines being prepared for administration. (II)~~

~~—E. Narcotic Permit. If a stock of controlled drugs is to be maintained, the facility may use the medical director's license for narcotics or procure a controlled drug permit from the S.C. Bureau of Drug Control and the Federal Drug Enforcement Agency. The permits shall be readily retrievable. (I)~~

~~—F. Records. Records shall be kept of all stock supplies of controlled substances giving an accounting of all items received and/or administered. (I)~~

~~—G. Poisonous Substances. All poisonous substances must be plainly labeled and kept in a cabinet or closet separate from medicines and drugs to be prepared for administration. (I)~~

~~—H. Review of Medications. A physician, pharmacist or registered nurse shall review at least monthly all medications prescribed by the facility's physician for each patient, for potential adverse reactions, allergies, interactions, etc. (II)~~

#### **SECTION 406. Dietary Services.**

~~—All dietary consultation provided shall be under the supervision of a registered dietitian. Each patient shall be evaluated as to his/her nutritional needs by the attending physician and a dietitian. The dietitian in consultation with the physician shall be responsible for assessing the nutritional and dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets. Each facility shall employ or contract with a dietitian(s) to provide for the dietary needs of each patient. The contractual hours shall be sufficient and agreed upon by the medical director and the dietitian to carry out these functions. (II)~~

#### **SECTION 407. Laboratory Services: (II).**

~~—A. Laboratory services shall be provided under contract to meet the needs of the patient except that hematoerits, clothing times and blood glucoses, which the facility uses to monitor its patients, may be done by the dialysis facility's staff, who are qualified by education and experience to perform such duties under the direction of a physician.~~

~~—B. Controls. There shall be a quarterly constant packing time performed on all centrifuges used for hematoerits. Records of performed CPT shall be maintained.~~

~~—C. Maintenance of Equipment. Each piece of equipment used to perform laboratory procedures shall be entered in the facility's preventive maintenance program.~~

~~—D. Administration of Blood. If a facility administers blood to patients, the following must be complied with:~~

~~——1. Blood must be transported from the laboratory processing the blood to the facility in a container that will ensure maintenance of a temperature of 1 to 10 degrees centigrade. Temperature must be recorded upon arrival.~~

~~——2. If blood is not administered immediately upon arrival, it must be stored in a refrigerator at 1-6 degrees centigrade. The temperature of the refrigerator must be monitored and recorded.~~

~~—E. All laboratory supplies shall be monitored for expiration dates, if applicable.~~

#### **SECTION 408. Social Services.**

~~—Social services shall be provided to patients and their families and shall be directed at supporting and maximizing the social functioning and adjustment of the patient. The social worker shall be responsible for conducting psycho-social evaluations, participating in team review of patient progress and recommending changes in treatment based on the patient's current psycho-social needs, providing case work and group work services to patients and their families in dealing with the special problems associated with ESRD, and identifying community social agencies and other resources and assisting patients and families to utilize them. Each facility shall employ or contract with a social worker and adequate number(s) of qualified assistant(s) to meet the social needs of patients. (H)~~

#### **SECTION 409. Infection Control.**

~~—A. The facility shall have an infection control committee or any other appropriate committee composed of at least the administrator, a physician and a registered nurse which shall be responsible for writing and enforcing policies and procedures for preventing and controlling hepatitis and other infections. The policies and procedures shall include but not be limited to: (H)~~

~~——1. appropriate procedures for prevention of hepatitis and other infectious diseases, to include the utilization of universal precautions for prevention of transmission of bloodborne pathogens currently recommended by the Centers for Disease Control;~~

~~——2. appropriate procedures for surveillance and reporting of infections to include infection rates;~~

~~——3. housekeeping;~~

~~——4. handling and disposal of waste and contaminants;~~

~~——5. sterilization and disinfection of equipment;~~

~~——6. prevention of contamination by blood and other body fluids of units outside of the dialysis and dialyzer reprocessing areas including toilet facilities, staff lounge, etc.;~~

~~——7. protection of patient clothing during the time when blood lines are opened or needles inserted or withdrawn; and~~

~~— 8. investigation of infections.~~

~~— B. Reportable Diseases: All cases of diseases which are required to be reported in accordance with DHEC Regulation 61-20, Communicable Diseases, and any occurrences such as epidemic outbreaks or poisonings or other unusual occurrence, which threatens the welfare, safety or health of patients or personnel, shall be reported immediately to the local health director and to the Office of Health Licensing of the Department. (II)~~

~~— C. Reports of infections such as abscesses, septicemia, hepatitis or other communicable diseases observed during admission or follow up (or return) visit of the patient shall be made and kept as a part of the patient's medical files. Efforts shall be made to determine the origin of any such infection and if the dialysis procedure was found to be related to acquiring the infection, remedial action shall be taken to prevent recurrence. (II)~~

~~— D. Hepatitis Surveillance: Hepatitis testing: Candidates for dialysis shall be screened for the hepatitis B surface antigen (HBsAg) within one (1) month before or at the time they enter the unit in order to determine their serologic status for surveillance purposes. All potential employees shall be screened for HBsAg prior to patient contact. This initial screening determines the individual's serologic status for surveillance purposes. Thereafter, routine serologic testing to monitor for Hepatitis B infection shall be conducted in accordance with the following schedule: (I)~~

~~— 1. If Unvaccinated:~~

~~— a. "Susceptible" (When individual is HBsAg and HBsAb negative):~~

~~— (1) For HbsAg, test patients monthly and staff semi-annually.~~

~~— (2) For HbsAb, test patients and staff semi-annually.~~

~~— b. "Infected" (When individual is HbsAg positive):~~

~~— (1) Test patients and staff for HBsAg, HBsAb, and HBeAb monthly for six months, then annually.~~

~~— (2) If still positive, conduct annual HBsAg. If individual reverts to negative HBsAg, test HBsAb & HBeAg annually or one time which indicates "immune".~~

~~— c. "Immune" (When individual is HBsAb positive): Test patients and staff for HBsAb once to confirm status, then follow up every three years.~~

~~— 2. If Vaccinated:~~

~~— a. "Immune" (When individual is HBsAb positive): Test patients and staff for HBsAb once to confirm status, then follow up every three years.~~

~~— b. "Low Level Immunity" or Negative (non-responder): Test patients and staff for HBsAb once to confirm status, then follow up every three years.~~

~~— E. Isolation Facilities: (II) A separate isolation dialysis room shall be provided in all facilities accepting hepatitis B surface antigen positive patients.~~



~~—F. Linens: (II)~~

~~——1. All reusable linens, including those used as sterilizing wrappers, must be laundered before re-use.~~

~~——2. Clean linens shall be handled, stored, processed, and transported in such a manner as to prevent the spread of infection.~~

~~——3. The facility shall have available at all times a quantity of linen essential for proper care and comfort of patients.~~

~~——4. Used linens shall be kept in closed and covered containers while being stored or transported.~~

~~—G. A sharp's disposal system shall be utilized and appropriately covered. (II)~~

~~—H. Paper towels or air hand dryers and soap dispensers with soap must be provided at all lavatories in the facility. (II)~~

**~~SECTION 410. Toxic and Hazardous Substances.~~**

~~—The facility shall have policies and procedures for dealing with toxic and hazardous substances. Such policies and procedures shall conform to current Occupational Safety and Health Administration standards regarding formaldehyde, renalin or any other sterilizing agents. (II)~~

~~—A. Procedures shall be developed to cover at a minimum:~~

~~——1. formaldehyde vapor concentration;~~

~~——2. fire prevention;~~

~~——3. solution exposure;~~

~~——4. large and small leaks from machines;~~

~~——5. large and small spills; and~~

~~——6. solution contact with eyes, skin and/or clothing (appropriate eyewash stations shall be provided in all facilities).~~

~~—B. Routine monitoring of vapor concentration shall be conducted and recorded in writing in accordance with current OSHA guidelines.~~

**~~SECTION 411. Home Dialysis (Self-Dialysis).~~**

~~—If the facility provides self-dialysis training, such training shall be provided by a registered nurse, who has had at least 12 months experience in dialysis. The facility shall provide directly or under arrangement the following services: (II)~~

~~—A. Hemodialysis:~~

~~——1. Surveillance of the patient's home adaptation, including provisions for visits to the home or the facility;~~

- ~~— 2. Consultation for the patient with a qualified social worker and a qualified dietitian;~~
- ~~— 3. A record keeping system which assures continuity of care;~~
- ~~— 4. Installation and maintenance of equipment;~~
- ~~— 5. Testing and appropriate treatment of the water; and,~~
- ~~— 6. Ordering of supplies on an ongoing basis.~~
- ~~— B. Continuous Ambulatory Peritoneal Dialysis (CAPD). Items 2,3, and 6 of paragraph “A” above must be provided.~~
- ~~— C. Continuous Cycling Peritoneal Dialysis (CCPD). Items 1,2,3,4 and 6 of paragraph “A” above must be provided.~~

#### **SECTION 400 – POLICIES AND PROCEDURES**

A. The Facility shall maintain and adhere to written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The Facility shall be in full compliance with the policies and procedures. (II)

B. The written policies and procedures shall include the following: (II)

- 1. Staffing and training
- 2. Reporting incidents, accidents, reportable diseases, closure and zero census
- 3. Patient records
- 4. Patient care and services
- 5. Patient rights and assurances
- 6. Medication management
- 7. Admissions and discharge
- 8. Fire prevention
- 9. Maintenance including doors, windows, HVAC, fire alarm, electrical, mechanical, plumbing, and for all equipment
- 10. Infection control and housekeeping
- 11. Water supply
- 12. Quality Improvement Program

C. The Facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented and signed by the Administrator. All policies and procedures shall be accessible to Facility staff, printed or electronically, at all times.

## **SECTION 500 – STAFF AND TRAINING**

### **501. General.**

A. The Facility shall maintain accurate and current information regarding all staff members of the Facility, to include at least address, phone number, date of hire, date of initial Patient contact, and personal, work, and training background.

B. The Facility shall assign all staff members duties and responsibilities in writing and in accordance with the individual's capability. The Facility shall maintain a personnel file for each staff member. The file shall contain a health assessment, laboratory test results, resumés of training and experience, and current job description that reflects the staff member's responsibilities and work assignments, orientation, and periodic evaluations. (II)

### **SECTION 502. Administrator. (II)**

A. The Facility shall employ a full-time Administrator who shall be responsible for the management and administration of the Facility. The Administrator shall hold at least a bachelor's degree or have a minimum of an associate degree in a health-related field with at least two (2) years of experience in End-Stage Renal Disease within the past five (5) years. The Director of Nursing may serve as the Administrator.

B. Designee. A staff member shall be designated in writing to act in the absence of the Administrator.

C. The Facility shall notify the Department in writing within seventy-two (72) hours of any change in Administrator status and shall provide the Department the name of the newly-appointed Administrator and the effective date of the appointment.

### **503. Director of Nursing.**

The Facility shall have a licensed registered nurse to act as Director of Nursing. The Director of Nursing shall have the following:

A. At least twelve (12) months of experience in clinical nursing, and an additional six (6) months of experience in nursing care for patients with permanent kidney failure or undergoing kidney transplantation, including training in and experience with the Dialysis process; or

B. Eighteen (18) months of experience in nursing care of a patient on dialysis, or in nursing care of a patient with a kidney transplant, including training in and experience with the dialysis process; or

C. If responsible for Home Dialysis Training, at least three (3) months of the total required End-Stage Renal Disease experience shall be in training patients in Home Dialysis.

### **504. Staffing. (I)**

A. Each Facility shall have the following minimum staffing to provide services:

1. A registered nurse who shall serve as charge nurse;

2. At least one (1) registered nurse shall be on duty during hours of operation for every ten (10) Patients or fraction thereof. The charge nurse may serve in this capacity; and

3. If the Facility provides Home Dialysis training, such training shall be provided by a registered nurse who has had at least twelve (12) months experience in dialysis.

B. In addition to nursing staff, Direct Care Staff shall be in the building and immediately available to ensure a ratio of one (1) Direct Care Staff to each four (4) Patients or fraction thereof. (I)

C. The Facility shall maintain documentation to ensure the Facility meets Sections 504.A and 504.B

### **505. Medical Staff.**

A. If more than one (1) physician practices in a Facility, they shall be organized as a medical staff with appropriate bylaws approved by the governing body. The medical staff shall meet at least Quarterly and the Facility shall maintain minutes of such meetings.

B. The Facility shall have a qualified physician to serve as Medical Director of the End-Stage Renal Diseases services. The Medical Director shall have the following qualifications:

1. Board eligible or board certified in internal medicine or pediatrics by a professional board; and

2. During the five (5)-year period prior to appointment, served for at least twelve (12) months as director of a Dialysis or transplantation program.

C. The Medical Director shall be responsible for the execution of Patient care policies and medical staff bylaws and rules and regulations. (II)

D. A licensed physician or nephrologist with demonstrated experience in the care of Patients with End-Stage Renal Disease shall be on-call to respond to Dialysis-related Patient issues during all times of clinical operations.

E. The Facility shall maintain a contact list for all on-call personnel, to include name, telephone number, and dates on-call. The Facility shall update the contact list as changes in personal occur, but not less than annually.

### **506. Job Descriptions.**

A. The Facility shall maintain written job descriptions that describe the duties of every position. Each job description shall include position, title, authority, specific responsibilities, and minimum qualifications.

B. Job descriptions shall be signed by each staff member when assigned to the position and when revised.

### **507. Orientation. (II)**

A. The Facility shall develop and execute a written orientation program to familiarize all new staff members with the Facility, its policies, and the staff members' job responsibilities. Documentation of orientation shall include training source, duration, and shall be signed and dated by the trainer and trainee. All required orientation shall be completed prior to Patient contact.

B. For Direct Care Staff, the orientation program shall contain at least the following subject content:

1. Fluid and electrolyte balance;
2. Kidney disease and treatment;
3. Dietary management;
4. Principles of Dialysis;
5. Dialysis technology;
6. Venipuncture technique;
7. Care of Dialysis Patients; and
8. Prevention of Hepatitis and other infectious diseases.

**508. Training. (I)**

A. Documentation of all in-service training shall be signed and dated by both the individual providing the training and the individual receiving the training. The following training shall be provided to all Direct Care Staff prior to resident contact and at a frequency determined by the Facility, but at least annually unless otherwise specified by certificate, e.g., cardiopulmonary resuscitation (CPR):

1. Basic first aid;
2. Confidentiality of Patient information;
3. Patient's rights and assurances;
4. End-Stage Renal Disease care;
5. Cardiopulmonary resuscitation for designated staff members to ensure that there is a certified staff member present whenever residents are in the Facility.

B. Each equipment technician shall have completed a training course. Documentation of the training course shall be maintained in the staff file. The training shall include the following:

1. Prevention of Hepatitis via Dialysis equipment;
2. The safety requirements of dialysate delivery systems;
3. Bacteriologic control;
4. Water quality standards; and
5. Repair and maintenance of Dialysis and other equipment.

C. Facilities may allow Licensed Practical Nurses to perform intravenous (IV) push medication therapy. Prior to any Licensed Practical Nurse performing IV push medication therapy the Facility shall secure and maintain in the individual staff file the following:

1. Documentation of completion of an intravenous (IV) therapy course to include didactic and skill competency verification as required by current state and federal regulations;

2. Documentation of competency of performing IV push medication therapy, and annually thereafter, to include:

a. Administration of set prescribed dose routine and chronic medications;

b. Lab value parameters;

c. Technical administration process monitoring;

d. Emergency plan according to Facility policy and procedures; and

e. All Medications to be administered, to include appropriate dosage, actions, side effects, and contraindications.

#### **509. Health Assessment.**

A. All Direct Care Staff shall have a documented Health Assessment within twelve (12) months prior to initial Patient contact. The Health Assessment shall include tuberculin skin testing as described in Section 1704.

B. For staff members working at multiple Facilities operated by the same Licensee, copies of the documented Health Assessment shall be accessible at each Facility.

### **SECTION 600 – REPORTING**

#### **601. Incidents.**

A. The Facility shall document every incident, and include an incident review, investigation, and evaluation as well as corrective action taken, if any. The Facility shall retain all documented incidents reported pursuant to this section for six (6) years after the Patient involved is last discharged.

B. The Facility shall report following types of incidents to the next of kin, or responsible party, for each affected individual at the earliest practicable hour, not exceeding twenty-four (24) hours of the incident. The Facility shall notify the Department immediately, not to exceed twenty-four (24) hours, via the Department's electronic reporting system or as otherwise determined by the Department. Incidents requiring reporting include:

1. Confirmed or suspected crimes against Patients;

2. Confirmed or suspected Abuse, Neglect, or Exploitation;

3. Use of wrong dialyzer on Patient;

4. Blood spills of more than seventy-five (75) milliliters;

- 5. Adverse reactions to Hemolytic transfusion;
- 6. Adverse reactions to dialyzers;
- 7. Medication errors;
- 8. Hospitalization or death resulting from the incident;
- 9. Severe hematoma or laceration requiring medical attention or hospitalization;
- 10. Bone or joint fracture;
- 11. Severe injury;
- 12. Fire;
- 13. Natural disaster; and
- 14. Displacement or relocation of Patients (II).

C. The Facility shall submit a separate written investigation report within five (5) days of every incident required to be reported to the Department pursuant to Section 601.B via the Department's electronic reporting system or as otherwise determined by the Department. Reports submitted to the Department shall contain only: Facility name, License number, type of accident and/or incident, the date of accident and/or incident occurred, number of Patients directly injured or affected, Patient medical record identification number, Patient age and sex, number of Staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of accident/incident, internal investigation results if cause unknown, a brief description of the accident/incident including location where occurred, and treatment of injuries

D. The Facility shall notify the Patient's Physician and next-of-kin within twenty-four (24) hours of significant changes in a Patient's condition and shall document the significant changes and notification in the Patient's record. (I)

## **602. Reportable Diseases and Infections. (II)**

A. Reportable Diseases. The Facility shall report cases of reportable diseases in accordance with Regulation 61-20, Communicable Diseases, and any occurrences such as epidemic outbreaks or poisonings or other unusual occurrence, which threatens the welfare, safety or health of Patients or personnel, shall be reported immediately to the local health director and to the Bureau of Health Facilities Licensing.

B. Reports of infections such as abscesses, septicemia, hepatitis, or other communicable diseases observed during admission or follow-up (or return) visit of the Patient shall be made and kept as a part of the Patient's medical records. Efforts shall be made to determine the origin of any such infection and if the dialysis procedure was found to be related to acquiring the infection, remedial action shall be taken to prevent recurrence.

## **603. Closure and Zero Census.**

A. The Facility shall notify the Department and Patients, or Patients' representatives when appropriate, in writing prior to permanent closure of the Facility and shall provide the effective closure date. The Facility shall return its License to the Department on the date of closure.

B. The Facility shall notify the Department in writing within fifteen (15) days prior to a temporary closure or within twenty-four (24) hours if the temporary closure is due to an emergency and provide the reason for the temporary closure, records maintenance plan, anticipated reopening date, and documentation of Patient notification. Facilities that are temporarily closed longer than one (1) year shall reapply for licensure with the Department and be subject to all applicable licensing and construction requirements for new Facilities.

C. The Facility shall notify the Department in writing if there have been no Patients in the Facility for any reason for ninety (90) days or more no later than one hundred (100) days after the last Patient is discharged. Facilities that are zero census longer than one (1) year shall reapply for licensure with the Department and be subject to all applicable licensing and construction requirements for new Facilities.

D. Prior to the closing of a Facility for any reason, the Licensee shall arrange for preservation of records to ensure compliance with this regulation. The Facility shall notify the Department in writing within ten (10) days of closure of the provisions for records maintenance describing the arrangements and the location of the records.

## **SECTION 700 – PATIENT RECORDS**

### **701. Content.**

A. The Facility shall maintain an organized medical record for each Patient. All entries shall be permanently written, typed, or electronic media, authenticated by the author, and dated.

B. The medical record shall be current and contain: (II)

1. Face sheet;

a. identification data (name, date of birth, gender);

b. diagnosis;

c. primary care physician's name and phone number;

d. Responsible person or other individual to be contacted in case of emergency and phone number;

e. Patient's address and phone number; and

f. date of admission;

2. Orders from Physicians and other Authorized Healthcare Providers for at least one (1) year. Standing orders shall be updated on an Annual basis;

3. Documentation of Physician or other Authorized Healthcare Provider visits for at least one (1) year. Physician or other Authorized Healthcare Provider visits shall be made at least four (4) times a month, and no more than twelve (12) calendar days between consecutive visits. The Facility shall document each visit missed by the Patient;



- 4. Physician progress notes for Home Dialysis Patients shall be documented monthly;
- 5. Lab and x-ray reports;
- 6. Annual history and physical;
- 7. Social worker initial assessments, updates, and quarterly progress notes;
- 8. Dietary initial assessments, updates, and monthly progress notes;
- 9. Miscellaneous consultations, hospitalizations;
- 10. Current Individual Plan of Care;
- 11. Nurses' progress notes each time of dialysis for one (1) month;
- 12. Nurse's initial admission assessment;
- 13. Signed consent forms.

#### **702. Authentication. (II)**

Facilities employing electronic signatures or computer-generated signature codes shall ensure authentication and confidentiality. If the Facility permits any portion of a Patient's record to be generated by electronic means, there shall be policies and procedures to prohibit the use or authentication by unauthorized users.

#### **703. Individual Plan of Care.**

A. The Interdisciplinary Team shall develop an Individual Plan of Care for each Patient to ensure appropriate modality of care. The Interdisciplinary Team shall develop the Individual Plan of Care either within the first thirty (30) calendar days of care or within the first thirteen (13) treatments. Individual Plans of Care shall be based on Patient's needs.

B. The Interdisciplinary Team shall review the Individual Plan of Care at least monthly for unstable Patients, and Annually for stable Patients and as changes in Patient needs occur. The Facility shall document participation of the Interdisciplinary Team, Patient and/or Patient's responsible party as appropriate, as evidenced by their signatures and date. The Individual Plan of Care shall include the following care areas:

- 1. Medical;
- 2. Psychological;
- 3. Social;
- 4. Dietary needs;
- 5. Stability of Patients;
- 6. Diagnosis;

- 7. Type of dialysis treatment;
- 8. Determination of stability of Patient (stable or unstable);
- 9. Indication whether candidate for transplantation or home dialysis;
- 10. Psychological needs, goals, and interventions; and
- 11. Dietary needs and interventions.
- 12. The course of action to be taken, the response and reaction to the care, and results of the treatment, and/or services provided.

#### **704. Record Maintenance.**

A. The Licensee shall provide accommodations, space, supplies, and equipment for the protection, storage, and maintenance of Patient records. Patient records shall be stored in an organized manner.

B. The Patient record is confidential and shall be made available only to individuals authorized by the Facility and/or the South Carolina Code of Laws. (II)

C. Copies of records generated by organizations or individuals contracted by the Facility for care or services shall be maintained by the Facility.

D. Upon Discharge of a Patient, the record shall be closed within thirty (30) calendar days and filed in an inactive or closed file maintained by the Licensee.

E. The Facility shall designate a staff member to serve as supervisor of Patient records. The Facility-designated staff member shall be a Registered Health Information Administrator or a Registered Health Information Technician. If the designated staff member is not a Registered Health Information Administrator or a Registered Health Information Technician the staff member shall receive consultation from a Registered Health Information Administrator or a Registered Health Information Technician. (II)

F. The Facility shall safeguard information in the medical record against loss, tampering, or use by unauthorized persons.

G. Records of current Patients shall be the property of the Facility. The records of current Patients shall be maintained at the Facility and shall not be removed without court order.

H. The length of time that medical records shall be retained is dependent upon the need for their use in continuing Patient care and for legal, research, or educational purposes. This length of time shall be not less than ten (10) years.

#### **705. Record Retention.**

A. When a Patient is transferred to an emergency Facility, a transfer summary to include, at a minimum, the diagnosis shall accompany the Patient to the receiving Facility at the time of transfer or forwarded immediately after the transfer. Documentation of the information forwarded shall be maintained in the Facility's Patient record. (I)

B. Records generated by organizations or individuals contracted by the Facility for care, treatment, procedures, surgery, and/or services shall be maintained by the Facility that has admitted the Patient. Appropriate information shall be provided to assure continuity of care.

C. The Facility shall determine the medium in which information is stored. The information shall be readily retrievable and accessible by Facility staff, as needed, and for regulatory compliance Inspections.

D. Records of Patients shall be maintained for at least six (6) years following the discharge of the Patient. Other documents required by the regulation, e.g., fire drills, shall be retained at least twelve (12) months or until the next Department Inspection, whichever is longer.

## **SECTION 800 – [RESERVED]**

## **SECTION 900 – PATIENT CARE AND SERVICES**

### **901. Dietary Services.**

Each Facility shall employ or contract with a Dietitian(s) to provide for the dietary needs of each Patient. The Dietitian, in consultation with the physician or other Authorized Healthcare Provide, shall be responsible for assessing the nutritional and dietetic needs of each Patient, recommending therapeutic diets, counseling Patients and their families on prescribed diets, and monitoring adherence and response to diets. Each Patient shall be evaluated as to his or her nutritional needs by the attending physician or other Authorized Healthcare Provider and a Dietitian.

### **902. Laboratory Services. (II)**

A. Laboratory services shall be provided under contract to meet the needs of the Patient. Hematocrits, clotting times, and blood glucoses may be done by the Facility's staff. Such staff shall be qualified by education and experience to perform such duties under the direction of a physician.

B. Controls. There shall be a Quarterly constant packing time performed on all centrifuges used for hematocrits. Records of performed constant packing time shall be maintained.

C. Administration of Blood. A Facility administering blood to Patients shall comply with the following:

1. Blood must be transported from the laboratory processing the blood to the Facility in a container that will ensure maintenance of a temperature of one to ten (1 to 10) degrees centigrade. Temperature must be recorded upon arrival.

2. If blood is not administered immediately upon arrival, it must be stored in a refrigerator at one to six (1 to 6) degrees centigrade. The temperature of the refrigerator must be monitored and recorded.

E. All expired laboratory supplies shall be disposed of in accordance with Facility policy and procedures.

### **903. Social Services.**

Each Facility shall employ or contract with a social worker to meet the social needs of Patients. The Social Worker shall document and conduct psycho-social evaluations, participate in team review of Patient progress, and document recommended changes in treatment based on the Patient's current psycho-social needs. (II)

#### **904. Home Dialysis.**

Home Dialysis Services shall include the following: (II)

##### A. Hemodialysis:

1. Surveillance of the Patient's home adaptation, including provisions for visits to the home or the Facility;

2. Consultation for the Patient with a Social Worker and Dietitian;

3. A record keeping system which ensures continuity of care;

4. Installation and maintenance of equipment;

5. Testing and appropriate treatment of the water; and

6. Ordering of supplies on an ongoing basis.

##### B. Continuous Ambulatory Peritoneal Dialysis:

1. Consultation for the Patient with a licensed Social Worker and a licensed Dietitian;

2. A record keeping system which ensures continuity of care; and

3. Ordering of supplies on an ongoing basis.

##### C. Continuous Cycling Peritoneal Dialysis:

1. Surveillance of the Patient's home adaptation, including provisions for visits to the home or the Facility;

2. Consultation for the Patient with a licensed Social Worker and a licensed Dietitian;

3. A record keeping system which ensures continuity of care;

4. Installation and maintenance of equipment; and

5. Ordering of supplies on an ongoing basis.

#### **905. Transfer Agreement.**

A. The Facility shall have in effect a written transfer agreement, signed by the Administrator, with one or more hospitals, for the provision of inpatient care and other hospital services.

B. The Dialysis Facility shall transfer a Patient to a hospital whenever a transfer or referral is determined as medically necessary by the attending physician.

C. There shall be an exchange of information, within one (1) business day, of medical and other information necessary or useful in the care and treatment of Patients transferred to a hospital or any other inpatient medical facility, or to another End-Stage Renal Disease Facility.

## **SECTION 1000 – PATIENT’S RIGHTS AND ASSURANCES**

A. The following rights shall be guaranteed to the Patient, and, at a minimum, the Facility shall provide the Patient and any guardians, next of kin, or sponsoring agencies a written and oral explanation of these rights:

1. Fully informed of these rights and responsibilities, and of all rules and regulations governing Patient conduct and responsibilities;

2. Fully informed of services available in the Facility and of related charges;

3. Informed by a Physician of their medical condition as documented in the Patient’s medical record unless the medical record documents a contraindication;

4. Afforded the opportunity to participate in the planning of their medical treatment and to refuse to participate in experimental research;

5. Be transferred or discharged only for medical reasons or for the welfare of the Patient, other Patients, or Facility Staff, or for nonpayment of fees and given notice to ensure orderly transfer or discharge; and

6. Treated with consideration, respect and full recognition of their individuality and personal needs, including the need for privacy in treatment.

B. The Facility shall maintain written documentation evidencing the Patient has had his or her rights explained.

## **SECTION 1100 – PATIENT PHYSICAL EXAMINATIONS**

A. A Physical Examination shall be completed for Patients within thirty (30) calendar days prior to admission and at least Annually thereafter. A Physical Examination included in a discharge summary from a healthcare facility licensed by the Department, completed within thirty (30) calendar days, is acceptable as the admission Physical Examination. The Facility’s physician shall attest to the Physical Examination’s accuracy by countersigning it.

B. Physical examinations by physicians licensed in states other than South Carolina are permitted for new admissions under the condition that residents obtain an attending physician licensed in South Carolina and undergo a second (2nd) physical examination by that physician within thirty (30) calendar days of admission to the facility.

## **SECTION 1200 – MEDICATION MANAGEMENT**

### **1201. General.**

A. Medications, including Controlled Substances, medical supplies, and those items necessary for the rendering of first aid, shall be properly managed in accordance with federal, state, and local laws and regulations. Such management shall address the securing, storing, and administering of Medications, medical supplies, first aid supplies, and biologicals, their disposal when discounted or expired, and their disposition at discharge, death, or transfer of a Patient.

B. Applicable reference materials published within the previous three (3) years shall be available at the Facility in order to provide staff members or volunteers with adequate information concerning Medications. (II)

### **1202. Medication Orders.**

A. Medications, to include oxygen, shall be administered in the Facility to Patients only upon orders of a physician or other Authorized Healthcare Provider.

B. All other orders shall be received only by Licensed Nurses or Authorized Healthcare Providers and shall be authenticated and dated by a physician or other Authorized Healthcare Provider pursuant to the Facility's policies and procedures, but no later than fourteen (14) calendar days after the order is given. Verbal orders received shall include the time of receipt of the order, description of the order, and identification of the physician or other Authorized Healthcare Provider and the individual receiving the order.

C. Medications and medical supplies ordered for a specific Patient shall not be provided to or administered to any other Patient.

### **1203. Medicine Storage.**

A. Medication and drugs maintained in the Facility for daily administration shall be properly stored and safeguarded in enclosures of sufficient size and that are not accessible to unauthorized persons. Refrigerators used for storage of Medications shall maintain an appropriate temperature as determined by the requirements established on the label of Medications. A thermometer accurate to plus or minus three (3) degrees shall be maintained in these refrigerators. Only authorized personnel shall have access to storage enclosures. Controlled Substances and ethyl alcohol, if stocked, shall be stored under double locks and in accordance with applicable state and federal laws. Expired or discounted Medications shall not be stored with current Medications.(I)

B. Medicine Preparation Area. Medicines and drugs shall be prepared for administration in an area that contains a counter and a sink. This area shall be located in such a manner to prevent contaminations of medicines being prepared for administration. (II)

C. Stock Medications.

1. Unless the Facility has a permitted pharmacy, stocks of Legend Medications shall not be stored except those specifically prescribed for individual Patients.

2. Non-legend Medications may be retained and labeled as stock in the Facility for administration as ordered by a Physician or other Authorized Healthcare Provider.

3. Stocks of naloxone may be stored for emergency overdose crises, with or without specific prescription for individual Patients.

4. If stock non-Patient specific Controlled Substances are to be used, a Controlled Substances registration from the Department's Bureau of Drug Control and a Controlled Substances registration from the federal Drug Enforcement Administration shall be obtained. The registrations shall be displayed in a conspicuous location within the Facility. Records shall be kept of all stock supplies of Controlled Substances giving an accounting of all items received and/or administered. (I)

D. Poisonous Substances. All poisonous substances shall be plainly labeled and kept in a cabinet or closet separate from medicines and drugs to be prepared for administration. (I)

E. Review of Medications. A Physician, pharmacist, or Licensed Nurse shall document review at least monthly all Medications prescribed by the Facility's physician for each Patient, for potential adverse reactions, allergies, interactions, etc. (II)

## **SECTION 1300 – [RESERVED]**

## **SECTION 1400—EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS**

### **1401. Disaster Preparedness. (II)**

A. The Facility shall develop and maintain a written plan for actions to be taken in the event of a disaster or an emergency evacuation. The plan shall be implemented as necessary and at the time of need. The plan shall be evaluated, updated at least Annually, and available upon request by Patients, Patients' families, and the Department.

B. During any emergent event the Facility shall provide data, Facility and evacuation status, and other requested information as determined by the Department, and at a frequency as determined by the Department.

### **1402. Continuity of Essential Services. (II)**

There shall be a plan to be implemented to ensure the continuation of essential Patient services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the work force resulting from inclement weather or other causes.

## **SECTION 1500 – FIRE PREVENTION**

### **1501. Arrangements for Fire Department Response and Protection. (I)**

A. Each Facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire, such as fire plan and evacuation plan.

B. Facilities located outside of a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. A copy of the agreement shall be kept on file in the Facility and a copy shall be forwarded to the Department. If the agreement is changed, a copy shall be forwarded to the Department.

### **1502. Tests and Inspections. (I)**

Fire protection and suppression systems shall be maintained and tested in accordance with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility.

### **1503. Fire Response Training. (I)**

All Facility staff shall complete Annual fire response training in accordance with specific duties and responsibilities outlined in their job description. Training shall be documented in a staff record and maintained in the Facility.

A. Fire response training shall address, at a minimum, the following:

1. Reporting a fire;
2. Use of the fire alarm system, if applicable;
3. Location and use of fire-fighting equipment;
4. Methods of fire containment; and
5. Specific responsibilities, tasks, or duties of each individual.

B. A plan for the evacuation of Patients, staff members, and visitors, to include evacuation routes and procedures, in case of fire or other emergencies, shall be established and posted in a conspicuous public area.

C. All Patients capable of self-evacuation shall be trained in the proper actions to take in the event of a fire, for example, actions to take if the primary escape route is blocked.

D. Patients shall be made familiar with the fire plan and evacuation plan upon admission and a copy of the evacuation floor diagram shall be provided to each Patient and/or the Patient's responsible party.

#### **1504. Fire Drills.**

A. An unannounced fire drill shall be conducted at least Quarterly for all shifts. Each staff member shall participate in a fire drill at least once each year. Records of drills shall be maintained at the Facility, indicating the date, time, shift, description, and evaluation of the drill, and the names of staff members, volunteers, and Patients directly involved in responding to the drill. If fire drill requirements are mandated by statute or regulation, then the mandated statute or regulation requirements supersede the requirements of this regulation, and the Facility shall comply with the provisions of the statute or regulation.

B. Drills shall be designed and conducted in consideration of and reflecting the content of the fire response training described in Section 1503 above.

C. All Patients shall participate in fire drills. In instances when a Patient refuses to participate in a drill, efforts shall be made to encourage participation, for example, counseling, implementation incentives rewarding Patients for participation, specific staff-to-Patient assignments to promote Patient participation. Continued refusal may necessitate implementation of the discharge planning process to place the Patient in a setting more appropriate to his or her needs and abilities.

D. In conducting fire drills, all Patients shall evacuate to the outside of the building to a selected assembly point. Drills shall be designed to ensure that Patients attain the experience of exiting through all exits.

#### **1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers.**

The Facility shall provide fire-fighting equipment such as fire extinguishers, standpipes, and automatic sprinklers as required by the provisions of the codes officially adopted by the South Carolina Building



Codes Council and the South Carolina State Fire Marshal applicable to the Facility. The Facility shall ensure extinguishers are sized, located, installed, and maintained in accordance with National Fire Protection Association No. 10. The Facility shall install suitable fire extinguishers in all hazardous areas. The Facility shall comply with all state and local fire and safety provisions. (I)

## **SECTION 1600 – MAINTENANCE**

### **1601. General Maintenance.**

The Facility shall keep all equipment and building components including, but not limited to, doors, windows, lighting fixtures, and plumbing fixtures in good repair and operating condition. The Facility shall document preventive maintenance. The Facility shall comply with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility. (II)

### **1602. Equipment Maintenance.**

A written preventive maintenance program for all fire alarm, electrical, mechanical, plumbing, fire protection systems, and for all equipment used in dialysis and related procedures including, but not limited to, all Patient monitoring equipment, isolated electrical systems, conductive flooring, Patient ground systems, and medical gas systems shall be developed and implemented. This equipment shall be checked and/or tested at such intervals to ensure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper operation before returning it to service. Records shall be maintained on each piece of equipment to indicate its history of testing and maintenance. (II)

## **SECTION 1700 – INFECTION CONTROL**

### **1701. Staff Practices.**

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for proper disposal of toxic and hazardous substances. These preventive measures and/or practices shall be in compliance with applicable guidelines of the Blood borne Pathogens Standard of the Occupational Safety and Health Act of 1970; the Centers for Disease Control and Prevention; R.61-105, Infectious Waste Management; and other applicable federal, state, and local laws and regulations.

### **1702. Committee.**

A. The Facility shall have an infection control committee composed of at least the Administrator, a Physician, and a registered nurse that shall be responsible for writing and enforcing policies and procedures for preventing and controlling hepatitis and other infections.

B. The policies and procedures for preventing and controlling hepatitis and other infections shall include, but not be limited to: (II)

1. appropriate procedures for prevention of hepatitis and other infectious diseases, to include the utilization of universal precautions for prevention of transmission of bloodborne pathogens currently recommended by the Centers for Disease Control;

2. appropriate procedures for surveillance and reporting of infections to include infection rates;

- 3. housekeeping;
- 4. handling and disposal of waste and contaminants;
- 5. sterilization and disinfection of equipment;
- 6. prevention of contamination by blood and other body fluids of units outside of the dialysis and Dialyzer reprocessing areas including toilet facilities, staff lounge, etc.;
- 7. protection of Patient clothing during the time when blood lines are opened or needles inserted or withdrawn; and
- 8. investigation of infections.

### **1703. Tuberculosis Risk Assessment and Screening. (I)**

A. Tuberculosis Testing. The Facility may utilize either Tuberculin skin testing or Blood Assay for Mycobacterium tuberculosis (“BAMT”) for detecting Mycobacterium tuberculosis infection:

1. Tuberculin skin testing (“TST”). A small dose (0.1 mil) of purified protein derivative (“PPD”) tuberculin is injected just beneath the surface of the skin (by the intradermal Mantoux method), and the area is examined for induration (hard, dense, raised area at the site of the TST administration) forty-eight to seventy-two (48 to 72) hours after the injection (but positive reactions can still be measurable up to a week after administering the TST). The size of the indurated area is measured with a millimeter ruler and the reading is recorded in millimeters, including zero (0) mm to represent no induration. Redness and/or erythema is insignificant and is not measured or recorded. Authorized Healthcare Providers are permitted to perform tuberculin skin testing and symptom screening.

2. Blood Assay for Mycobacterium tuberculosis (“BAMT”). A general term to refer to in vitro diagnostic tests that assess for the presence of tuberculosis (“TB”) infection with Mycobacterium tuberculosis. This term includes, but is not limited to, IFN- $\gamma$  release assays (“IGRA”).

B. The Facility shall conduct an Annual tuberculosis risk assessment in accordance with the Centers for Disease Control guidelines to guide the Facility’s infection control policies and procedures related to the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

#### C. Baseline Status.

1. The Facility shall determine the baseline status of all staff according to the Centers for Disease Control and the Department’s most current tuberculosis guidelines.

2. Tuberculosis Screening. All staff within three (3) months prior to Patient contact shall have a baseline two-step Tuberculin Skin Test (“TST”) or a single Blood Assay for Mycobacterium tuberculosis (“BAMT”). If a newly employed staff or volunteer has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered and read to serve as the baseline prior to Patient contact.

D. Post Exposure. After known exposure to a person with potentially infectious tuberculosis disease without use of adequate personal protection, the tuberculosis status of all staff shall be determined in a

manner prescribed in the Centers for Disease Control and Department's most current tuberculosis guidelines.

E. Annual Tuberculosis Training. All Direct Care staff shall receive Annual training regarding tuberculosis to include risk factors and signs and symptoms of tuberculosis disease. The Annual tuberculosis training shall be documented in a staff record and maintained at the Facility.

F. Serial Screening. The Facility shall follow the Centers for Disease Control and Department's most current tuberculosis guidelines related to serial screening.

#### **1704. Staff Hepatitis Screening.**

A. All Direct Care Staff shall have been vaccinated or have evidence of immunity for Hepatitis B prior to Patient contact, unless contraindicated or offered and declined. The Facility shall maintain records of all Direct Care Staff hepatitis B vaccinations in each individual staff file. The HBsAg status of all Direct Care Staff shall be known to identify those individuals who are (1) HBsAg-positive and therefore potential sources of infection to others; (2) anti-HBs-positive and therefore, immune; and (3) HBV-seronegative and therefore susceptible to Hepatitis B virus.

B. The Facility shall offer Hepatitis B vaccinations to unvaccinated and partially vaccinated new Direct Care Staff members prior to Patient contact. The decision to receive or decline a vaccination shall be documented in the individual staff file.

1. Each Direct Care Staff member who elects vaccination shall start the initial dose of the Hepatitis B series within ten (10) days of Patient contact and complete the series within six (6) months. The Facility shall conduct and document routine post-vaccination testing according to the Centers for Disease Control guidelines for response to the vaccination.

2. The Facility shall consider the individuals declining vaccinations as Hepatitis B virus susceptible, and follow the Centers for Disease Control guidelines in the event of a reported blood or bodily fluid exposure.

C. For staff members whose status has been determined to be HBsAg-positive, the Facility shall refer to current Centers for Disease Control guidelines and Facility policies and procedures.

#### **1705. Patient Hepatitis Screening.**

A. All Patients shall be screened thirty (30) calendar days prior to or upon admission to determine the Hepatitis B virus serological status (HBsAg, anti-HBc, and anti-HBs). The HBsAg status of all Patients shall be known to identify those individuals who are (1) HBsAg-positive and therefore potential sources of infection to others; (2) anti-HBs-positive and therefore immune; and (3) HBV-seronegative and therefore susceptible to Hepatitis B virus. A status result from Hepatitis B testing shall be maintained in the Patient's record.

B. The Facility shall make available to Patients literature describing the risks and benefits of the Hepatitis B vaccination. The Facility shall offer Hepatitis B vaccinations to unvaccinated and/or susceptible Patients. The Facility shall maintain all Patient vaccination records in each Patient record.

1. Each Patient who elects vaccination shall start the initial dose of the Hepatitis B vaccine series within ten (10) days of admission and complete the series within six (6) months according to Centers for Disease Control guidelines for pre-exposure vaccination. The Facility shall conduct and document routine

post-vaccination testing according to the Centers for Disease Control guidelines for response to the vaccination.

2. The Facility shall consider the individuals declining vaccinations as Hepatitis B virus seronegative, and follow the Centers for Disease Control guidelines for routine testing.

C. For Patients whose status has been determined to be HBsAg positive, the Facility shall refer to current Center for Disease Control guidelines and Facility policies and procedures.

D. The Facility shall conduct routine Hepatitis B testing per current Centers for Disease Control guidelines.

#### **1706. Isolation Room.**

All Facilities accepting Hepatitis B surface antigen positive Patients shall provide a separate isolation Dialysis room. (II)

#### **1707. Housekeeping. (II)**

A. The Facility and its grounds shall be clean, and free of vermin and offensive odors.

B. Interior housekeeping shall, at a minimum, include:

1. Cleaning each specific area of the Facility;

2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area appropriate to the area and the equipment's purpose or use;

3. For chemicals indicated as harmful on the product label, cleaning materials and supplies shall be in locked storage areas and inaccessible to Patients; and

4. During use of chemicals indicated as harmful on the product label, cleaning materials and supplies shall be in direct possession of the staff member and monitored at all times.

C. Exterior housekeeping shall, at a minimum, include:

1. Cleaning of all exterior areas, such as, porches and ramps, and removal of safety impediments such as snow and ice;

2. Keeping the Facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin; and

3. Safe storage of chemicals indicated as harmful on the product label, equipment, and supplies inaccessible to Patients.

D. Paper towels or air hand dryers and soap dispensers with soap must be provided at all lavatories in the Facility. (II)

#### **1708. Linen.**

A. All reusable linens, including those used as sterilizing wrappers, must be laundered before re-use.

B. Clean linens shall be handled, stored, processed, and transported in such a manner as to prevent the spread of infection.

C. The Facility shall have available at all times a quantity of linen essential for proper care and comfort of Patients.

D. Used linens shall be kept in closed and covered containers while being stored or transported.

#### **1709. Refuse and Waste Disposal. (II)**

A. All garbage and waste shall be collected, stored, and disposed of in a manner to prevent the transmission of disease. Containers shall be washed and sanitized before being returned to work areas. Disposable-type containers shall not be reused.

B. Containers for garbage and refuse shall be covered and stored outside in durable, rust-resistant, non-absorbent, watertight, rodent-proof, easily cleanable containers placed on an approved platform to prevent overturning by animals, the entrance of flies or the creation of a nuisance. All solid waste shall be disposed of at frequencies in a manner so as not to create a rodent, insect, or other vermin problem.

C. Containers for garbage shall be cleaned and free of debris.

D. All sewage and liquid waste shall be disposed of in a manner not to create a public health hazard and by a sanitary method approved by the Department.

E. A Sharps disposal system shall be utilized and appropriately covered. (II)

#### **1710. Outside Areas.**

All outside areas, grounds and/or adjacent buildings shall be kept free of rubbish, grass, and weeds that may serve as a fire hazard or as a haven for vermin. Outside stairs, walkways, ramps, and porches shall be maintained free from accumulations of water, ice, snow, and other impediments.

#### **1711. Toxic and Hazardous Substances.**

The Facility shall have policies and procedures for dealing with toxic and hazardous substances. Such policies and procedures shall conform to current Occupational Safety and Health Administration standards regarding formaldehyde, renalin, or any other sterilizing agents. (II)

A. The Facility shall develop procedures to cover at a minimum:

1. Formaldehyde vapor concentration;

2. Fire prevention;

3. Solution exposure;

4. Leaks from machines;

5. Large and small spills; and

6. Solution contact with eyes, skin and/or clothing (appropriate eyewash stations shall be provided in all Facilities).

B. The Facility shall conduct and document routine monitoring of vapor concentration in accordance with current Occupational Safety and Health Administration guidelines.

### **SECTION 1800 - QUALITY IMPROVEMENT PROGRAM**

A. There shall be a written, implemented quality improvement program that provides effective self-assessment and implementation of changes designed to improve the care and services provided by the Facility.

B. The quality improvement program, at a minimum, shall:

1. Establish desired outcomes and the criteria by which policy and procedure effectiveness is regularly, systematically, and objectively accomplished;

2. Identify, evaluate, and determine the causes of any deviation from the desired outcomes;

3. Identify the action taken to correct deviations and prevent future deviation, and the person(s) responsible for implementation of these actions;

4. Analyze the appropriateness of Individual Plans of Care and the necessity of care and services rendered;

5. Analyze all incidents and accidents, to include all medication errors and Patient deaths;

6. Analyze any infection, epidemic outbreaks, or other unusual occurrences which threaten the health, safety, or well-being of the Patients; and

7. Establish a systematic method of obtaining feedback from Patients and other interested persons, as expressed by the level of satisfaction with care and services received.

### **SECTION 1900 – DESIGN AND CONSTRUCTION**

#### **1901. General.**

A Facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each Patient. Facility design shall be such that all Patients have access to required services.

#### **1902. Codes and Standards.**

A. Facility design and construction shall comply with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility.

B. Unless specifically required otherwise by the Department, all Facilities shall comply with the adopted construction codes and construction provisions of this regulation applicable at the time its initial License was issued.

#### **1903. Submission of Plans and Specifications.**

A. Plans and specifications shall be submitted to the Department for review and approval for new construction, additions or alterations to existing buildings, replacement of major equipment, buildings being licensed for the first time, buildings changing license type, and for Facilities increasing occupant load or Licensed Capacity. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. Unless directed otherwise by the Department, plans shall be submitted at the schematic, design development, and final stages. All plans shall be drawn to scale with the title, stage of submission, and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction, the owner shall employ a registered architect and/or engineer for observation and inspections. Periodic inspections shall be conducted by the Department throughout each phase of a project.

B. Plans and specifications shall be submitted to the Department for review and approval for projects involving Dialysis systems that are periodically replaced, reverse osmosis systems, or that have an effect on:

1. The function of a space;
2. The accessibility to or of an area;
3. The structural integrity of the Facility;
4. The active and/or passive fire safety systems;
5. Doors;
6. Walls;
7. Ceiling system assemblies;
8. Exit corridors;
9. Life safety systems; or
10. That increase the occupant load or Licensed Capacity of the Facility.

C. The Facility shall submit all subsequent addenda, change orders, field orders, and documents altering the Department's review. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

D. Cosmetic changes utilizing paint, wall covering, floor covering, etc. that are required to have a flame-spread rating or to satisfy other safety criteria shall be documented with copies kept on file at the Facility and made available to the Department.

#### **1904. Code and Standards Compliance and Inspections.**

Construction work which violates codes or standards will be required to be brought into compliance. All projects shall obtain all required permits from the locality having jurisdiction. Construction performed without proper permitting shall not be inspected by the Department.

**PART II**  
**Physical Plant**

**CHAPTER 20**  
***Design and Construction***

**SECTION 2001. General.**

~~—Every facility must be planned, designed and equipped to provide adequate facilities for the care and comfort of each patient.~~

**SECTION 2002. Local and State Codes and Standards.**

~~—Facilities shall substantially comply with pertinent local and state laws, codes, ordinances and standards with reference to design and construction. No facility will be licensed unless the Department has assurance that responsible local officials sanction the licensing of the facility. The Department uses as its basic codes the Standard Building Code, the Standard Plumbing Code, the Standard Mechanical Code, and the National Electrical Code. Buildings designed in accordance with the above mentioned codes will be acceptable to the Department, provided, however, that the minimum requirements as set forth in these standards are met.~~  
(H)

**SECTION 2003. Submission of Plans and Specifications.**

~~—1. New Buildings, Additions or Major Alterations to Existing Buildings: When construction is contemplated either for new buildings, additions or major alterations to existing buildings, plans and specifications shall be submitted to the Department for review. Such plans and specifications shall be prepared by an architect registered in the State of South Carolina and shall bear his/her seal. These submissions shall be made in at least two stages: preliminary and final. All plans shall be drawn to scale with the title and date shown thereon. Construction work shall not be started until approval of the final drawings or written permission has been received from the Department. Any construction changes from the approved documents shall have approval from the Department.~~ (H)

~~—A. Preliminary submission shall include the following:~~

~~——1. Plot plan showing size and shape of entire site; orientation and location of proposed building; location and description of any existing structures, adjacent streets, highways, sidewalks, railroads, et cetera, properly designated; size, characteristics and location of all existing public utilities, including information concerning water supply available for fire protection.~~

~~——2. Floor plans showing overall dimensions of buildings; locations, size and purpose of all rooms; location and size of doors, windows and other openings with swing of doors properly indicated; locations of smoke partitions and firewalls; location of stairs, elevators, dumbwaiters, vertical shafts and chimneys.~~

~~——3. Outline specifications listing a general description of construction including interior finishes and mechanical systems.~~

~~—B. Final submission shall include the following: Complete working drawings and contract specifications, including layouts for plumbing, air conditioning, ventilation and electrical work and complete fire protection layout.~~



~~—C. In construction delayed for a period exceeding 12 months from the time of approval of final submission a new evaluation and/or approval is required.~~

~~—D. One complete set of as built drawings shall be filed with the Department.~~

~~—2. Licensure of Existing Structures: When an existing structure is contemplated for licensure as a new facility or as an expansion to an existing facility, the following submittals shall be made to the Department:  
(H)~~

~~—(All plans shall be neatly prepared and drawn to scale with the title and date shown thereon.)~~

~~—A. Plot plan in accordance with Section 2003.1.A.1.~~

~~—B. Floor plan(s) in accordance with Section 2003.1.A.2, including location of stations.~~

~~—C. Description of construction including outside walls, partitions, floor, ceiling and roof. The method of heating and cooling shall also be included.~~

~~—D. Report from the local Fire Marshal's Office stating that the facility meets their requirements for a Renal Dialysis Facility. Any deficiencies noted on the report shall be corrected prior to issuance of a license by the Department.~~

~~—3. Minor Alterations in Licensed Facilities: When alterations are contemplated that may affect life safety, preliminary drawings and specifications, accompanied by a narrative completely describing the proposed work, shall be submitted to the Department for review and approval to insure that the proposed alterations comply with current safety and building standards.~~

#### **~~SECTION 2004. Location.~~**

~~—A. Environment: Facilities shall be located in an environment that is conducive to the type of care and services provided.~~

~~—B. Transportation: Facilities must be served by roads which are passable at all times and are adequate for the volume of expected traffic.~~

~~—C. Parking: The facility shall have parking space to satisfy the minimum needs of patients, employees, staff and visitors.~~

~~—D. Communications: A telephone must be provided on each floor used by patients and additional telephones or extensions must be provided, as required, to summon help in case of fire or other emergency. Pay station telephones are not acceptable for this purpose.~~

#### **~~SECTION 2005. Physical Facilities.~~**

~~—A. The dialysis unit(s) shall be separate from other activities and shall be located in an area free of traffic by non-unit staff or patients. (H)~~

~~—B. The nursing station shall be located in an area which provides adequate visual surveillance of patients on dialysis machines. (I)~~

~~—C. Treatment areas shall be designed and equipped to provide proper and safe treatment as well as privacy and comfort for patients. Sufficient space shall be provided to accommodate emergency equipment and staff to move freely to reach patients in emergencies. (I)~~

~~—D. At least two acceptable exits shall be provided for each facility. (II)~~

~~—E. If the facility is located on the ground floor there must be one exit to the outside for ambulance and/or handicapped use. (II)~~

~~—F. If the dialysis units are located above ground floor, the facility must have an elevator sized to accommodate a stretcher. (II)~~

~~—G. Dialysis units shall be at least three feet apart with cubicle curtains or other means to provide complete privacy for each patient as needed. (II)~~

~~—H. All rooms shall open onto a corridor leading to exit and all corridors used by patients shall be at least four feet wide. (II)~~

~~—I. Each dialysis unit shall contain a minimum of 90 square feet per station and be so arranged as to facilitate both routine and emergency care of the patients. (II)~~

~~—J. A waiting room shall be provided with sufficient seating for patients and visitors.~~

~~—K. Ample storage rooms shall be provided for supplies and equipment. At least ten square feet of floor space per unit shall be provided.~~

~~—L. A clean work area that contains a work counter, handwashing sink, and storage facilities for the storage of clean and sterile supplies must be provided. (II)~~

~~—M. A soiled work area that contains a work counter, handwashing sink, storage cabinets and waste receptacle shall be provided. (II)~~

~~—N. Patient toilet facilities shall be provided.~~

~~—O. A separate staff toilet and personal storage space shall be provided within the unit.~~

~~—P. Separate storage space shall be provided for oxygen cylinders if a piped system is not provided. (II)~~

~~—Q. A janitor's closet shall be provided adjacent to and for the exclusive use of the dialysis facility.~~

#### **~~SECTION 2006. Maintenance.~~**

~~—A facility's structure, its component parts, and all equipment such as elevators, furnaces and emergency lights, shall be kept in good repair and operating condition. Areas used by patients shall be maintained in good repair and kept free of hazards. All wooden surfaces shall be sealed so as to allow sanitizing. (II)~~

#### **~~SECTION 2007. Housekeeping: (II).~~**

~~—A. General: A facility shall be kept clean and free from odors. Accumulated waste material must be removed daily or more often if necessary. There must be frequent cleaning of floors, walls, ceilings, woodwork, and windows. The premises must be kept free from rodent and insect infestation. Bath and toilet~~

~~facilities must be maintained in a clean and sanitary condition at all times. Cleaning materials and supplies shall be stored in a safe manner in a well lighted closet. All harmful agents shall be locked in a closet or cabinet used for this purpose only.~~

~~— B. Dialysis Station: Each unit shall be cleaned in accordance with established written procedures after each use.~~

#### **~~SECTION 2008. Water Supply and Plumbing.~~**

~~— A. Water Supply: Water shall be obtained from a community water system and shall be distributed to conveniently located taps and fixtures throughout the facility and shall be adequate in volume and pressure for all purposes. (H)~~

~~— B. The dialysis facility shall enter into an agreement with the water district or similar authority whereby the facility is regularly notified of situations occurring outside the facility which may adversely impact water quality including but not limited to: (I)~~

~~—— 1. changes in treatment methods and source;~~

~~—— 2. municipal water treatment equipment failure;~~

~~—— 3. damage to the distribution system; and~~

~~—— 4. chemical spills.~~

~~— C. Water used for dialysis purposes shall be analyzed for bacteriological quality at least monthly and chemical quality at least quarterly and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. (I) Water used to prepare a dialysate shall not contain concentrations of elements or organisms in excess of those specified below:~~

<del>ELEMENTS</del>	<del>LIMIT IN MILLIGRAMS PER LITER</del>
<del>Aluminum</del>	<del>.01</del>
<del>Arsenic</del>	<del>.005</del>
<del>Barium</del>	<del>.100</del>
<del>Cadmium</del>	<del>.001</del>
<del>Calcium</del>	<del>2.0</del>
<del>Chloramines</del>	<del>.001</del>
<del>Chlorine</del>	<del>.500</del>
<del>Chromium</del>	<del>.014</del>
<del>Copper</del>	<del>.100</del>
<del>Fluorides</del>	<del>.200</del>
<del>Lead</del>	<del>.005</del>
<del>Magnesium</del>	<del>4.0</del>
<del>Mercury</del>	<del>.0002</del>
<del>Nitrates (Nitrogen)</del>	<del>2.0</del>
<del>Potassium</del>	<del>8.0</del>
<del>Selenium</del>	<del>.090</del>
<del>Silver</del>	<del>.005</del>
<del>Sodium</del>	<del>70.0</del>
<del>Sulfates</del>	<del>100.0</del>

Zinc  
Bacteria

100  
200 colonies per milliliter

~~— D. Plumbing: All plumbing material and plumbing systems or parts thereof installed shall meet the minimum requirements of the Standard Plumbing Code.~~

~~— All plumbing shall be installed in such a manner as to prevent back siphonage or cross connections between potable and non-potable water supplies. (H)~~

#### **~~SECTION 2009. Refuse and Waste Disposal: (H).~~**

~~— A. Storage and Disposal: All garbage and refuse shall be stored in durable, nonabsorbent, rodent proof, closed containers. These containers shall be covered and stored outside. All solid waste shall be disposed of at sufficient frequencies in a manner so as not to create a rodent, insect or other vermin problem.~~

~~— B. Cleaning: Immediately after emptying, containers for waste shall be cleaned.~~

#### **~~SECTION 2010. Outside Areas.~~**

~~— All outside areas, grounds and/or adjacent buildings shall be kept free of rubbish, grass, and weeds that may serve as a fire hazard or as a haven for roaches, rodents and other pests. Outside stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice, snow and other impediments.~~

### **SECTION 2000 – FIRE PROTECTION, PREVENTION, AND LIFE SAFETY**

A. Facilities shall have a partial, manual, automatic, supervised fire alarm system. The Facility shall arrange the system to transmit an alarm automatically to a third party. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculation systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. All fire, smoke, heat, sprinkler flow, and manual fire alarming devices shall be connected to and activate the main fire alarm system when activated. (I)

C. Facilities shall not have single and multi-station smoke alarms.

## ***CHAPTER 21***

### ***Fire Protection and Prevention***

#### **~~SECTION 2101. Fire Extinguishers, Standpipes, and Automatic Sprinklers~~**

~~— Fire fighting equipment such as fire extinguishers, standpipes and automatic sprinklers shall be provided as required by the Standard Building Code. Extinguishers shall be sized, located, installed and maintained in accordance with NFPA No. 10. Suitable fire extinguishers shall also be installed in all hazardous areas. Each facility shall conform with all state and local fire and safety provisions. (I)~~

#### **~~SECTION 2102. Alarms.~~**

~~A manual fire alarm system in accordance with provisions of “Local Protective Signaling System,” NFPA No. 72A, shall be provided. (I)~~

#### **~~SECTION 2103. Gases.~~**

~~Gases (flammable and nonflammable) shall be handled and stored in accordance with the provisions of applicable NFPA codes. (I)~~

## **SECTION 2100 – GENERAL CONSTRUCTION**

A. Gases, flammable and nonflammable, shall be handled and stored in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

B. Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. “No Smoking” signs shall be posted conspicuously, and cylinders shall be properly secured in place. In “Smoke-Free” Facilities, “No Smoking” signs shall not be required provided all four (4) of the following conditions are met:

1. Smoking is prohibited;
2. The Facility nonsmoking policy is strictly enforced;
3. “Smoke-Free” signs are strategically placed at all major entrances; and
4. A facility shall have “No Smoking” signs where oxygen is stored. (I)

## ***CHAPTER 22*** ***Mechanical Requirements***

### **~~SECTION 2201. Heating, Air Conditioning and Ventilation.~~**

~~Heating, air conditioning and ventilation systems shall be capable of maintaining comfortable temperatures. Work rooms and soiled utility areas must have exhaust of air to the outside. (II)~~

### **~~SECTION 2202. Emergency Electrical Power.~~**

~~The facility shall be equipped with an emergency power source. (I)~~

### **~~SECTION 2203. Lighting and Electrical Services.~~**

~~All electrical and other equipment used in the facility shall be maintained free of defects which could be a potential hazard to patients or personnel. There shall be sufficient safe lighting for individual activities, including suitable lighting for corridors and baths. Lighting in work area shall never be less than 50 foot-candles. (II)~~

## **SECTION 2200 – [RESERVED]**

## ***CHAPTER 23*** ***Preventive Maintenance of Equipment***

### **~~SECTION 2301. Equipment Maintenance.~~**

~~A written preventive maintenance program for all equipment used in dialysis and related procedures including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient ground systems, and medical gas systems shall be developed and implemented. This~~

~~equipment shall be checked and/or tested at such intervals to insure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper operation before returning it to service. Records shall be maintained on each piece of equipment to indicate its history of testing and maintenance. (II)~~

### **SECTION 2300 – WATER SUPPLY**

A. Water Supply. Water shall be obtained from a community water system and shall be distributed to conveniently located taps and fixtures throughout the Facility and shall be adequate in volume and pressure for all purposes. (II)

B. The Facility shall enter into an agreement with the water district or similar authority whereby the Facility is regularly notified of situations occurring outside the Facility that may adversely impact water quality including, but not limited to: (I)

1. changes in treatment methods and source;
2. municipal water treatment equipment failure;
3. damage to the distribution system; and
4. chemical spills.

C. Water used for dialysis purposes shall be analyzed for bacteriological quality at least monthly and chemical quality at least Quarterly and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. Water used to prepare a dialysate shall not contain concentrations of elements or organisms in excess of those specified below: (I)

<u>ELEMENTS</u>	<u>LIMIT IN MILLIGRAMS PER LITER</u>
<u>Aluminum</u>	<u>.01</u>
<u>Arsenic</u>	<u>.005</u>
<u>Barium</u>	<u>.100</u>
<u>Cadmium</u>	<u>.001</u>
<u>Calcium</u>	<u>2.0</u>
<u>Chloramines</u>	<u>.001</u>
<u>Chlorine</u>	<u>.500</u>
<u>Chromium</u>	<u>.014</u>
<u>Copper</u>	<u>.100</u>
<u>Fluorides</u>	<u>.200</u>
<u>Lead</u>	<u>.005</u>
<u>Magnesium</u>	<u>4.0</u>
<u>Mercury</u>	<u>.0002</u>
<u>Nitrates (Nitrogen)</u>	<u>2.0</u>
<u>Potassium</u>	<u>8.0</u>
<u>Selenium</u>	<u>.090</u>
<u>Silver</u>	<u>.005</u>
<u>Sodium</u>	<u>70.0</u>
<u>Sulfates</u>	<u>100.0</u>
<u>Zinc</u>	<u>.100</u>

Bacteria

200 colonies per milliliter

## ***CHAPTER 24***

### ***General***

#### **SECTION 2401. General.**

~~Conditions arising which have not been covered in these regulations shall be handled in accordance with the best practices as interpreted by the Department.~~

### **SECTION 2400 – ELECTRICAL**

#### **2401. General.**

A. Emergency electric services shall be provided as follows:

1. Exit lights, if required;
2. Exit access corridor lighting;
3. Illumination of means of egress; and
4. Fire detection and alarm systems, if required.

B. The Facility shall be equipped with either:

1. An installed electric generator; or
2. A standard transfer switch for connection to a portable electric generator that is under permanent contract for delivery and connection as soon as possible during government-declared weather related emergencies. (I)
3. The Facility shall ensure generators feed all building and power requirements.

#### **2402. Lighting and Electrical Services.**

A. All electrical and other equipment used in the Facility shall be maintained free of defects that could be a potential hazard to Patients or personnel. The Facility shall provide safe lighting for individual activities as required by applicable codes.

B. The Facility shall maintain all electrical installations and equipment in a safe, operable condition in accordance with the applicable codes.

C. The Facility shall maintain documentation of Annual electrical system inspection by a certified or licensed technician.

### **SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)**

A. The Facility shall maintain documentation of annual Heating, Ventilation, and Air Conditioning system inspection by a certified or licensed technician. (II)

B. The Facility shall maintain a temperature of between seventy-two (72) and seventy-eight (78) degrees Fahrenheit in Patient areas. (II)

C. No Heating, Ventilation, and Air Conditioning supply or return grille shall be installed within three (3) feet of a smoke detector. (I)

D. Heating, Ventilation, and Air Conditioning grilles shall not be installed in floors. (II)

E. Intake air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials. The system shall not discharge in such a manner that would be an irritant to the Patients, staff, or volunteers. (II)

F. Each bathroom and/or restroom shall have either operable windows or have approved mechanical ventilation. (II)

## **SECTION 2600 – PHYSICAL PLANT**

### **2601. General.**

A. The dialysis unit(s) shall be separate from other activities and shall be located in an area free of traffic by non-unit staff or Patients. (II)

B. The nursing station shall be located in an area that provides adequate visual surveillance of Patients on dialysis machines. (I)

C. Treatment areas shall be designed and equipped to provide proper and safe treatment as well as privacy and comfort for Patients. Sufficient space shall be provided to accommodate emergency equipment and staff to move freely to reach Patients in emergencies. (I)

D. At least two (2) acceptable exits shall be provided for each Facility. (II)

E. If the Facility is located on the ground floor there must be one (1) exit to the outside for ambulance and/or handicapped use. (II)

F. If the dialysis units are located above the ground floor, the Facility must have an elevator sized to accommodate a stretcher. (II)

G. Dialysis units shall be at least three (3) feet apart with cubicle curtains or other means to provide complete privacy for each Patient as needed. (II)

H. All rooms shall open onto a corridor leading to an exit and all corridors used by Patients shall be at least four (4) feet wide. (II)

I. A waiting room shall be provided with sufficient seating for Patients and visitors.

J. Storage rooms shall be provided for supplies and equipment. Storage room floor space shall total at least ten (10) square feet per station.



K. A clean work area that contains a work counter, handwashing sink, and storage facilities for the storage of clean and sterile supplies shall be provided. (II)

L. A soiled work area that contains a work counter, handwashing sink, storage cabinets, and waste receptacle shall be provided. (II)

M. Patient toilet facilities shall be provided.

N. A separate staff toilet and personal storage space shall be provided within the unit.

O. Separate storage space shall be provided for oxygen cylinders if a piped system is not provided. (II)

P. A janitor's closet shall be provided adjacent to and for the exclusive use of the dialysis Facility.

## **2602. Ground Fault Protection.**

All electrical and other equipment used in the Facility shall be maintained free of defects that could be a potential hazard to Patients or personnel. There shall be sufficient safe lighting for individual activities, including suitable lighting for corridors and baths. Lighting in work areas shall never be less than fifty (50) foot-candles. (II)

## **SECTION 2700 – SEVERABILITY**

In the event that any portion of this regulation is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of this regulation, and they shall remain in effect as if such invalid portions were not originally a part of this regulation.

## **APPENDIX A. Prerequisites for Initial Licensure—Renal Dialysis Facility**

~~Prior to admission of patients to, and issuance of a license for new facilities or additional station, the following actions must be accomplished:~~

- ~~1. The facility must be issued a Certificate of Need in accordance with DHEC Regulation 61-15.~~
- ~~2. Plans and construction must be approved by the Division of Health Facilities Construction, DHEC.~~
- ~~3. The facility shall submit a completed Application for License on forms which shall be furnished by the Office of Health Licensing. The following documents shall be submitted with the application:~~
  - ~~a. Final construction approval of both water and wastewater systems by the appropriate District Environmental Quality Control Office of DHEC. (Includes satisfactory laboratory reports of water samples taken by the local office of Environmental Quality Control.)~~
  - ~~b. Laboratory reports including chemical analysis and bacteriological culturing to assure water for dialysis conforms to the American National Standard for Hemodialysis Systems.~~
  - ~~c. Approval from appropriate building official stating that all applicable local codes and ordinances have been complied with.~~

- ~~1. If the facility is located within town or city limits, approval by the local fire chief stating that all applicable requirements have been met, or~~
- ~~2. If the facility is located outside town or city limits, a written agreement with the nearest fire department that will provide protection and respond in case of fire at the facility.~~
- ~~d. Certification and laboratory test reports, provided by the manufacturer or supplier, that all carpeting purchased by the facility has been tested under~~
  - ~~1. ASTM E 84 and has a flame spread rating of not more than 75, or~~
  - ~~2. ASTM E 648 or NFPA No. 253 with a rating of not less than .45 watts/sq. cm.~~
- ~~e. Certification by the contractor that only the carpeting described in (d) above was installed in the facility.~~
- ~~f. Certification by the manufacturer or supplier that all drapes and cubicle curtains purchased by the facility are flame or fire resistant or retardant.~~
- ~~g. Certification by the owner or contractor that only materials described in (f) above were installed.~~
- ~~h. Certification by the manufacturer or supplier that all wall covering materials purchased by the facility are fire or flame resistant or retardant.~~
- ~~i. Certification by the owner or contractor that only the materials described in (h) above were installed.~~
- ~~j. Certification by the engineer that all fire alarm and smoke detection systems have been installed according to plans and specifications, have been tested and operate satisfactorily.~~
- ~~k. Certification by the contractor that the automatic sprinkler system, if applicable, has been completed and tested in accordance with the approved plans and specifications and NFPA No. 13.~~
- ~~l. Certification that all medical gas systems have been properly installed and tested.~~
- ~~m. For corporation owned facilities, a list of all officers and their corporate titles.~~
- ~~4. Resumes for the persons in charge of the day to day operation of the facility and nursing services.~~
- ~~5. Resumes for the Dietitian and Social Worker.~~
- ~~6. Required personnel must be employed, available, trained and capable of performing their duties.~~
- ~~7. The Office of Health Licensing shall inspect the facility and require compliance with these regulations.~~
- ~~8. The facility must pay the required licensing fee.~~

## **ATTACHMENT B**

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

Statutory Authority: 1976 Code Section 44-7-260

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

The Department of Health and Environmental Control (“Department”) proposes amending R.61-97, Standards for Licensing Renal Dialysis Facilities. Interested persons may submit comment(s) on these proposed amendments to the Bureau of Health Facilities Licensing; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; HealthRegComm@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on April 22, 2019, the close of the draft comment period.

#### **Synopsis:**

R.61-97 has not been substantively updated since 1993. The Department proposes amending R.61-97 to update and revise definitions and requirements regarding obtaining licensure, inspections and violations, personnel and in-service training, accident and incident reporting, client records and care, infection control, meal service, record maintenance and retention, fire and life safety, construction design, and licensure standards throughout. The Department also intends to add language to incorporate current provider-wide exceptions and memoranda applicable to renal dialysis facilities. The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, codification, and 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.

## ATTACHMENT C

### SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

#### R.61-97, Standards for Licensing Renal Dialysis Facilities

As of the April 22, 2019, close of the Notice of Drafting Comment period:

NAME	SECTION	PUBLIC COMMENT	DEPARTMENT RESPONSE
1. Passion Newsome, US Renal Care	N/A	Recommended changes to nurse/CCHT licensing under the state board of nursing requested to allow the CCHT to perform more tasks (catheter care, catheter treatment initiation & discontinuation, heparin administration, etc.). These tasks are allowed in the state of NC and it would be great to align with other states.	Not Adopted. This is regulated by SCDLLR.
2. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	306.C	Recommended change:  C.A qualified nephrologist or licensed physician with demonstrated experience in the care of patients with end stage renal disease shall be on call <b>to respond to dialysis related patient issues during all times of posted hours of clinic operations (I)</b>	Adopted  Suggested change in language made based on comment. Now Section 505.D.
3. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	308.A.3	Recommended change:  3. Informed by a physician of their medical condition <b>as documented in the patient's medical record unless the medical record documents a contraindication;</b>	Adopted  Suggested change in language based on comment. Now Section 1000.B.3.
4. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	308.A.5	Recommended change:  5. Be transferred or discharged only for medical reasons or for the patient's welfare or that of other patients <b>or their family members or caretakers present in the facility, or facility staff,</b> or for nonpayment of fees and given notice to ensure orderly transfer or discharge; and	Partially Adopted.  Included "facility staff" in Section 1000.A.5.
5. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	308.A.6	Recommended change:  6. Treated with consideration, respect and full recognition of their individuality and personal needs, including the need for <b>reasonable</b> privacy in treatment.	Not adopted.  Comment is a suggested change in language. Privacy is based on the patient's needs.
6. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	403.B.3	Documentation of physician's visit, at least weekly by either progress note or run (flow) sheet for at least one year (at least one month of the most current run sheets must be contained in the active file);	Adopted.  Comment is a suggested change in language. Now located in 701.B.3. Telehealth visits are not prohibited by this

NAME	SECTION	PUBLIC COMMENT	DEPARTMENT RESPONSE
		Documentation of <b>physician, nurse practitioner or physician assistant visit, at least four times monthly</b> , by either progress note or run (flow) sheet for at least one year (at least one month of the most current run sheets must be contained in the active file); <b>Missed visits due to the patient's absence at rounding times will not be assessed as a visit deficiency. Telehealth visits for all dialysis patient modalities will be allowed as dictated by the current Center for Medicare and Medicaid Services.</b>	regulation as long as they meet the requirements for physician visits and current state law.
7. John H. Durham, MD, DHEC Renal Advisory Board, Palmetto Nephrology	2202	<p>The facility shall be equipped with an emergency power source. (I)</p> <p>The facility shall be equipped with <b>either: (i) an installed electric generator or (ii) a standard transfer switch for connection to a portable electric generator which is under permanent contract for delivery and connection as soon as possible during government declared weather related emergencies (I)</b></p>	<p>Adopted.</p> <p>Comment is a suggested change in language. Now located in 2400.B.2.</p>

Date: November 7, 2019

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

From: Bureau of Water

Re: **Public Hearing for Notice of Final Regulation Amending R.61-9, *Water Pollution Control Permits*, Document No. 4888**

## **I. Introduction**


The Bureau of Water proposes the attached Notice of Final Regulation amending R.61-9, *Water Pollution Control Permits*, for publication in the November 22, 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 they are for compliance with federal law. The amendments will take legal effect as of the November 22, 2019, publication in the *State Register*.


## **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*.
3. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2019.
4. The Department had a Notice of Proposed Regulation published in the August 23, 2019, *State Register*. The Department received one public comment by the September 23, 2019, close of the public comment period. Attachment B presents a summary of the public comment received and the Department's response.
5. The Department met with stakeholders to discuss the Notice of Proposed Regulation and receive stakeholder input on September 23, 2019.

## **III. Request for Approval**

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-9, *Water Pollution Control Permits*, for legal effect as of November 22, 2019, publication in the *State Register*.

  
Mike Marcus, Ph.D.  
Chief, Bureau of Water

  
Myra Reece  
Director of Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

## ATTACHMENT A

### STATE REGISTER NOTICE OF FINAL REGULATION FOR R.61-9, *Water Pollution Control Permits*

November 7, 2019

Document No. 4888

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

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

61-9. Water Pollution Control Permits.

#### Synopsis:

The Department of Health and Environmental Control ("Department") amends 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), exempted these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

**Instructions:** Amend R.61-9 pursuant to each individual instruction provided with the text of the amendments below.

~~Indicates Matter Stricken~~

Indicates New Matter

#### Text:

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(f) to read:**

(f) Reporting requirements.

**Amend 61-9.122.41(f)(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(f)(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(f)(7) to read:**

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (f)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f)(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 (f)(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 (l)(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(e)(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 19<sup>th</sup> 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.

#### **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 amendments. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department amends R.61-9 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 amendments save time and resources for the State and regulated permittees by transitioning from paper to electronic reporting. The amendments also increase data accuracy, which results 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 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 maintaining inaccurate representations of the water quality of the State's waters.

**ATTACHMENT B**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**Document No. 4888**

**R.61-9, *Water Pollution Control Permits***

**As of the September 23, 2019, close of the Notice of Proposed Regulation comment period:**

<b>NAME</b>	<b>SECTION CITATION</b>	<b>PUBLIC COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
Ranae Smith, Magellan Midstream Partners, LP, Tulsa, Oklahoma	61-9.122.44(i)(1)(iv)	Magellan supports the SCDHEC decision to implement Sufficiently Sensitive Test Methods as proposed for Regulation 61-9.122.44(I)(1)(iv) but is concerned about additional regulatory effluent limits being set below practical quantitation limits (PQLs) for certain parameters (e.g. total residual chlorine).	The Department proposes these amendments for state compliance with federal law.

Date: November 7, 2019

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

From: Bureau of Water

Re: **Public Hearing for Notice of Final Regulation Amending R.61-68, *Water Classifications and Standards*, Document No. 4887**

## **I. Introduction**

The Bureau of Water ("Bureau") proposes the attached Notice of Final Regulation amending R.61-68, *Water Classifications and Standards*. Legal authority resides in S.C. 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*.

4. The Bureau met with stakeholders to discuss the Notice of Drafting and to receive stakeholder input on April 23, 2019, and on May 21, 2019.

5. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2019.

6. The Department had a Notice of Proposed Regulation published in the August 23, 2019, *State Register*. The Department received public comments from three parties by September 23, 2019, the close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.

7. The Bureau met with stakeholders to discuss the Notice of Proposed Regulation and receive stakeholder input on September 23, 2019.

8. After consideration of all timely received comments, staff has made minor changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the August 8, 2019, Board meeting and published in the August 23, 2019, *State Register*. Descriptions of the changes appear in Attachment B, Summary of Public Comments and Department Responses.

### III. Request for Approval

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-68, *Water Classifications and Standards*, for submission to the General Assembly.



Mike Marcus, Ph.D.  
Chief, Bureau of Water



Myra Reese  
Director of Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R.61-68, *Water Classifications and Standards***

**November 7, 2019**

Document No. 4887

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

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

61-68. Water Classifications and Standards.

**Synopsis:**

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") amends R.61-68 to adopt these criteria the Department deemed necessary to comply with federal regulatory recommendations and revisions. The Department adopts 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 also makes stylistic changes for overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the February 22, 2019, *South Carolina State Register*.

**Instructions:** Amend R.61-68 pursuant to each individual instruction provided with the text of the amendments below.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

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 (enterococci)	<del>(enterococci)</del> 50+ 104 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 a swimming advisory for freshwater recreational use will be based on the single sample maximum of 8 µg/L. Once issued, the swimming advisory 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 a swimming advisory for freshwater recreational use will be based on the single sample maximum of 15 µg/L. Once issued, the swimming advisory 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.

<b>Quality Standards for Trout Waters</b>	
<b>ITEMS</b>	<b>STANDARDS</b>
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.
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>
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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>	Not to exceed 15 µg/L. For freshwater primary contact recreational use notifications and advisories samples shall not exceed 15 µg/L.
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**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.

<b>Quality Standards for Class SB Waters</b>	
<b>ITEMS</b>	<b>STANDARDS</b>
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 <del>50+104</del> /100 mL. Additionally, for beach monitoring and notification activities for CWA Section 406 only, samples shall not exceed a single sample maximum of <del>50+104</del> /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	
						For Consumption of:			
		CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	Water & Organism Only (µg/L)	Organism Only (µg/L)		MCL (µg/L)
1	Antimony					5.6 B, cc	640 B, cc	6 cc	65FR66443 SDWA
2	Arsenic	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					J, cc	J, cc	4 cc	65FR31682 SDWA
4	Cadmium	0-530.49 D, E, K, Y	0-100.25 D, E, K, Y	4333 D, Y	9-37.9 D, Y	J, cc	J, cc	5 cc	65FR3168281FR19176 SDWA
5a	Chromium III	580 D, E, K	28 D, E, K			J, cc	J, cc	100 cc	EPA820/B-96-001 65FR31682 SDWA
5b	Chromium VI	16 D, K	11 D, K	1,100 D, Y	50 D, Y	J, cc	J, cc	100 cc	65FR31682 SDWA
6	Copper	3.8 D, E, K, Z, II	2.9 D, E, K, Z, II	5.8 D, Z, Y, cc	3.7 D, Z, Y, cc	1,300 T, cc			65FR31682

Priority Pollutant	CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health		FR Cite/ Source		
						For Consumption of:				
		CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	Water & Organism Only (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	
						For Consumption of:			
		CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	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
						For Consumption of:		
		CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	Water & Organism (µg/L)	Organism Only (µg/L) MCL (µg/L)	
								SDWA
32	1, 1-Dichloroethylene					330 cc	7,100 cc 7 C	68FR75510 SDWA
33	1, 2-Dichloropropane					0.50 B, C	15 B, C 5 C	65FR66443 SDWA
34	1, 3-Dichloropropene					0.34 cc	21 cc	68FR75510
35	Ethylbenzene					530 cc	2,100 cc 700 cc	68FR75510 SDWA
36	Methyl Bromide					47 B, cc	1,500 B, cc	65FR66443
37	Methylene Chloride					4.6 B, C	590 B, C 5 C	65FR66443 SDWA
38	Monochloroacetic acid						60 Total HAA5 C.mm	SDWA
39	1, 1, 2, 2-Tetrachloroethane					0.17 B, C	4.0 B, C	65FR66443
40	Tetrachloroethylene					0.69 C	3.3 C 5 C	65FR66443 SDWA
41	Toluene					1,300 cc	15,000 cc 1000 cc	68FR75510 SDWA
42	1,2-Trans- Dichloroethylene					140 cc	10,000 cc 100 cc	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 Only (µg/L)	MCL (µg/L)	
43	Trichloroacetic acid						60 Total HAA5 C, mn	SDWA
44	1, 1, 1-Trichloroethane					J, ee	J, ee	65FR31682 SDWA
45	1, 1, 2-Trichloroethane					0.59 B, C	16 B, C	65FR66443 SDWA
46	Trichloroethylene					2.5 C	30 C	65FR66443 SDWA
47	Vinyl Chloride					0.025 kk	2.4 kk	68FR75510 SDWA
48	2-Chlorophenol					81 B, T, ee	150 B, T, ee	65FR66443
49	2, 4-Dichlorophenol					77 B, T, ee	290 B, T, ee	65FR66443
50	2, 4-Dimethylphenol					380 B, T, ee	850 B, T, ee	65FR66443
51	2-Methyl- Di 4, 6-nitrophenol					13 ee	280 ee	65FR66443
52	2, 4-Dinitrophenol					69 B, ee	5,300 B, ee	65FR66443
53	Pentachlorophenol	19 F, K	15 F, K	13 Y	7.9 Y	0.27 B, C	3.0 B, C, H	65FR31682 65FR66443 SDWA
54	Phenol					10,000 T, ee, mn	860,000 T, ee, mn	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					1.4 B, C, T	2.4 B, C	65FR66443
56	Acenaphthene					670 B, T, ee	990 B, T, ee	65FR66443
57	Anthracene					8,300 B, ee	40,000 B, ee	65FR66443
58	Benzidine					0.000086 B, C	0.00020 B, C	65FR66443
59	Benzo (a) Anthracene					0.0038 B, C	0.018 B, C	65FR66443
60	Benzo (a) Pyrene					0.0038 B, C	0.018 B, C	65FR66443 SDWA
61	Benzo (b) Fluoranthene					0.0038 B, C	0.018 B, C	65FR66443
62	Benzo (k) Fluoranthene					0.0038 B, C	0.018 B, C	65FR66443
63	Bis-2-Chloroethyl Ether					0.030 B, C	0.53 B, C	65FR66443
64	Bis-2-Chloroisopropyl Ether					1,400 B, ee	65,000 B, ee	65FR66443
65	Bi-s2-Ethylhexyl Phthalate (DEHP)	V	V	V	V	1.2 B, C	2.2 B, C	65FR66443 SDWA
66	Butylbenzene Phthalate	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					1,000 B, ee	1,600 B, ee	65FR66443
68	Chrysene					0.0038 B, C	0.018 B, C	65FR66443
69	Dibenzo(a,h)Anthracene					0.0038 B, C	0.018 B, C	65FR66443
70	1, 2-Dichlorobenzene					420 ee	1,300 ee	600 ee
71	1, 3-Dichlorobenzene					320 ee	960 ee	65FR66443
72	1, 4-Dichlorobenzene					63 ee	190 ee	75 ee
73	3, 3' -Dichlorobenzidine					0.021 B, C	0.028 B, C	65FR66443
74	Diethyl Phthalate	ii	ii	ii	ii	17,000 B, ee	44,000 B, ee	65FR66443
75	Dimethyl Phthalate	ii	ii	ii	ii	270,000 B, ee	1,100,000 B, ee	64FR66443
76	Di-n-butyl Phthalate	ii	ii	ii	ii	2,000 B, ee	4,500 B, ee	65FR66443
77	2, 4-Dinitrotoluene					0.11 C	3.4 C	65FR66443
78	1, 2-Diphenylhydrazine					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:	MCL (µg/L)	
						Water & Organism Only (µg/L)	Organism Only (µg/L)	
79	Fluoranthene					130 B, ee	140 B, ee	65FR66443
80	Fluorene					1,100 B, ee	5,300 B, ee	65FR66443
81	Hexachlorobenzene					0.00028 B, C	0.00029 B, C	65FR66443 SDWA
82	Hexachlorobutadiene					0.44 B, C	18 B, C	65FR66443
83	Hexachlorocyclopentadiene					40 T, ee	1100 T, ee	50 ee
84	Hexachloroethane					1.4 B, C	3.3 B, C	65FR66443
85	Indeno 1,2,3(cd) Pyrene					0.0038 B, C	0.018 B, C	65FR66443
86	Isophorone					35 B, C	960 B, C	65FR66443
87	Nitrobenzene					17 B, ee	690 B, H, T, ee	65FR66443
88	N-Nitrosodimethylamine					0.00069 B, C	3.0 B, C	65FR66443
89	N-Nitrosodi-n-Propylamine					0.0050 B, C	0.51 B, C	65FR66443
90	N-Nitrosodiphenylamine					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)	
91	Pyrene	129000				830 B, ee	4,000 B, ee	65FR66443
92	1, 2, 4-Trichlorobenzene	120821				35 ee	70 ee	70 ee
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
97	Chlordane	57749	2.4 G	0.0043 G, X	0.004 G, X	0.00080 B, C	0.00081 B, C	2 C
98	4, 4'-DDT	50293	1.1 G, gg	0.001 G, X, gg	0.001 G, X, gg	0.00022 B, C	0.00022 B, C	
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	0.0019 G, X	0.000052 B, C	0.000054 B, C	65FR31682 65FR66443
102	alpha-Endosulfan	959988	0.22 G, W	0.056 G, W	0.0087 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:	MCL (µg/L)	
103	beta-Endosulfan	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					62 B, ee	89 B, ee	65FR31682 65FR66443
105	Endrin	0.086 K	0.036 K, N	0.037 G	0.0023 G, X	0.059 ee	0.060 ee	68FR75510 SDWA
106	Endrin Aldehyde					0.29 B, ee	0.30 B, H, ee	65FR66443
107	Heptachlor	0.52 G	0.0038 G, X	0.053 G	0.0036 G, X	0.000079 B, C	0.000079 B, C	65FR31682 65FR66443 SDWA
108	Heptachlor Epoxide	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	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	65FR31682 65FR66443 SDWA
110	Toxaphene	0.73	0.0002 X	0.21	0.0002 X	0.00028 B, C	0.00028 B, 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 I – 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 CaCO<sub>3</sub>. Criteria values for other hardness may be calculated from the following:  $CMC(dissolved) = \exp\{m_a [\ln(hardness)] + b_a\}$  (CF), or  $CCC(dissolved) = \exp\{m_c [\ln(hardness)] + b_c\}$  (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:  $CMC(total) = \exp\{m_a [\ln(hardness)] + b_a\}$ , or  $CCC(total) = \exp\{m_c [\ln(hardness)] + b_c\}$ .
- F Freshwater aquatic life values for pentachlorophenol are expressed as a function of pH, and are calculated as follows:  $CMC = \exp(1.005(pH) - 4.869)$ ;  $CCC = \exp(1.005(pH) - 5.134)$ . 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  $CMC = 1/[(f1/CMC1) + (f2/CMC2)]$  where f1 and f2 are the fractions of total selenium that are treated as selenite and 19elenite, 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' to humans. If a substantial fraction of the cyanide present in a water body is present in a complexed form (e.g.,  $\text{Fe}[\text{Fe}(\text{CN})_6]_3$ ), 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								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 <i>a</i>		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	Chlorpyrifos	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	349868 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								SDWA	
42	Oxygen, Dissolved	7782447	WARMWATER, COLDWATER, AND EXCEPTIONS FOR NATURAL CONDITIONS - SEE TEXT								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								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								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
64	Carbaryl	2.1	2.1	1.6					77FR30280

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.
- B This same criterion value is now published in the Gold Book.
- C 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: Chlorophytos (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	$\frac{4.0466}{0.9789}$ A	$\frac{-3.924}{-3.866}$ A	$\frac{0.7409}{0.7977}$ A	$\frac{-4.719}{-3.909}$ A	$1.136672 \cdot [\ln(\text{hardness}) / (0.041838)]$	$1.101672 \cdot [\ln(\text{hardness}) / (0.041838)]$
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	$1.46203 \cdot [\ln(\text{hardness}) / (0.145712)]$	$1.46203 \cdot [\ln(\text{hardness}) / (0.145712)]$
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) =  $\exp \{m_A [\ln(\text{hardness})] + b_A\}$ , or CCC (total) =  $\exp \{m_C [\ln(\text{hardness})] + b_C\}$

CMC (dissolved) =  $\exp \{m_A [\ln(\text{hardness})] + b_A\}$  (CF), or CCC (dissolved) =  $\exp \{m_C [\ln(\text{hardness})] + b_C\}$  (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  $\alpha$ ) 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><math>K_{PO}</math></u>	<u><math>\alpha</math></u>	<u><math>K_{PO}</math></u>	<u><math>\alpha</math></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>

Zinc	3.34E+06	-0.6788	1.25E+06	-0.7038
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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  $\text{CMC (dissolved)} = \exp\{m_A [\ln(\text{hardness})] + b_A\}$  (CF)

$$K_P = K_{PO} \times (\text{TSS}_b)^a$$

$\text{TSS}_b$  = 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  $\text{CCC (dissolved)} = \exp\{m_C [\ln(\text{hardness})] + b_C\}$  (CF)

$$K_P = K_{PO} \times (\text{TSS}_b)^a$$

$\text{TSS}_b$  = 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.

#### **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: 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 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 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 amends 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 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(A)(3)(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 amends R.61-68 to adopt these criteria the Department deemed necessary to comply with federal regulatory recommendations and revisions. The Department adopts 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.

## **ATTACHMENT B**

## SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

Document No. 4887

*R.61-68, Water Classifications and Standards*

As of the September 23, 2019, close of the Notice of Proposed Regulation comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Bill Stangler, Congaree Riverkeeper	61-68.G.9.j; 61-68.G.9.k; 61-68.G.10.j; 61-68.G.10.k	The proposed criteria for microcystins and cylindrospermopsin are essentially double the recommended criteria from EPA. We ask that the department adopt the criteria of 4 µg/L for microcystins, and 8 µg/L for cylindrospermopsin as recommended by EPA.	<u>Not Accepted:</u> The referenced criteria for microcystins and cylindrospermopsin were EPA's draft recommendation. EPA's final published recommended criteria for microcystins and cylindrospermopsin are 8 µg/L and 15 µg/L, respectively. The Department is following the recommendation of EPA's final published criteria.
Bill Stangler, Congaree Riverkeeper		We understand that the Department does plan to pursue a separate rulemaking for flow standards in 2020. We look forward to engaging in the process in the coming year and hope the Department works through the process diligently and expeditiously.	<u>Not Accepted:</u> 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.
Bill Stangler, Congaree Riverkeeper		The Department has still failed to make any meaningful progress on adopting numeric nutrient criteria for South Carolina's rivers and streams. The Department had originally established a plan for adoption of numeric nutrient criteria for estuaries, rivers, and streams by 20082, and is now 11 years behind schedule with no clear timeline or plan for establishing numeric nutrient criteria for all waters of the state.	<u>Not Accepted:</u> 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.

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Chester Sansbury		The cancer causing substances contained in wastewater from point sources and nonpoint sources should be of more concern to DHEC Staff and its Board. Increasing evidence supports that various cancers caused by substances in drinking water are occurring in our population and is inconsistent with protection of public health.	<u>Not Accepted</u> : Pursuant to South Carolina Code Sections 48-1-10, et seq. of the 1976 South Carolina Code of Laws, the Department of Health and Environmental Control shall promulgate regulations to implement the Pollution Control Act. R. 61-68, Water Classifications and Standards, establish appropriate classified water uses to be achieved and protected, establish general rules and specific water quality criteria to protect classified and existing water uses, establish antidegradation rules, protect the public health and welfare, and maintain and enhance water quality. The water quality standards also serve as a basis for decision making in other water quality program areas. National Pollutant Discharge Elimination System (NPDES) permit limitations for waste discharges are based upon the classifications and water quality standards of the receiving waters. This regulation also governs the control of toxic substances, thermal discharges, stormwater discharges, dredge and fill activities, and other water related activities.

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Jason Thompson, Charleston Water System	61-68.E.14.c(10); 61-68.G.13	A reduction in the daily maximum enterococci from 501 MPN/100 mL to 104 MPN/100 mL is a substantial reduction from the current permit limits that is likely to add significant capital burden to the utility with limited environmental gain given the relatively small discharge volume released from Plum Island to a large receiving body. POTW should be transitioned to monthly/weekly geometric mean bacteria limits for NPDES compliance.	<u>Not Accepted</u> : Existing and new NPDES permits contain both a daily maximum and a monthly average (geometric mean) bacteria effluent limitation. A compliance schedule should be provided in any NPDES permit where effluent limitations are set to become more stringent. The Department recognizes there likely will be capital costs to facilities in order to comply with the more stringent standard. However, the reduction in the daily maximum enterococci standard for Class SB saltwaters from 501 MPN/100 mL to 104 MPN/100 mL protects public health for citizens recreating in and on the saltwaters. This change is consistent with and protective of the designated uses given to Class SB saltwaters.

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Jason Thompson, Charleston Water System	61-68.E.14.d(7); 61-68.E.14.d(8); 61-68.E.14.d(9); 61-68.E.14.d(10)	<p>Though cyanotoxin screening methods may be appropriate for determining swimming advisories, EPA approved methods (such as EPA method 544, 545, and 546) should be used to confirm positive hits for either microcystins or cylindrospermopsin given the potential ramifications of taking a water body into impaired status.</p> <p>It is also important to clarify what conditions would cause the body of water to be removed from the impaired status list.</p>	<p><u>Accepted:</u> The Department uses Abraxis ELISA methods when testing for microcystins and cylindrospermopsin. This method is approved by EPA through the Department's QAPP for the analysis of cyanotoxins. EPA method 544 and EPA method 545 are used to determine cyanobacteria levels in drinking water, and are not applicable to determine cyanobacteria levels ambient freshwater. The Department is revising the proposed regulatory text to clarify when a single swimming advisory would be issued and how long that swimming advisory would remain in effect.</p> <p>If a waterbody is added to the list of impaired waters for either microcystins or cylindrospermopsin, then that waterbody could be delisted following a three year assessment period within which no swimming advisories for the respective cyanobacteria were issued. This assessment and listing methodology shall be clearly defined in the 303(d) list, however it is not necessary to include this methodology in R.61-68.</p>

Date: November 7, 2019

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

From: Bureau of Water

Re: **Public Hearing for Notice of Final Regulation Amending R.61-69, *Classified Waters*, Document No. 4885**

### **I. Introduction**

The Bureau of Water ("Bureau") proposes the attached Notice of Final Regulation amending R.61-69, *Classified Waters*. Legal authority resides in S.C. 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**

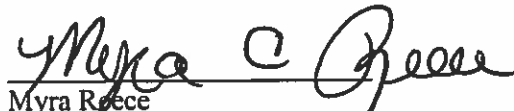
1. R.61-69 establishes South Carolina's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Bureau proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. 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*.
3. The Bureau 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.
5. The Department had a Notice of Proposed Regulation published in the August 23, 2019, *State Register*. The Department did not receive any public comments by the September 23, 2019, close of the public comment period.
6. The Bureau met with stakeholders to discuss the Notice of Proposed Regulation and receive stakeholder input on September 23, 2019.

### **III. Request for Approval**

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-69, *Classified Waters*, for submission to the General Assembly.



Mike Marcus, Ph.D.  
Chief, Bureau of Water



Myra Reece  
Director of Environmental Affairs

Attachment:

A. Notice of Final Regulation

**ATTACHMENT A**  
**STATE REGISTER NOTICE OF FINAL REGULATION**  
**FOR R.61-69, *Classified Waters***

**November 7, 2019**

Document No. 4885  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

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

61-69. Classified Waters.

**Synopsis:**

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") amends R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. The Department also includes stylistic changes for overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the February 22, 2019, *South Carolina State Register*.

**Instructions:** Amend R.61-69 pursuant to each individual instruction provided with the text of the amendments below.

~~Indicates Matter Stricken~~  
Indicates New Matter

**Text:**

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

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Archers Creek	Bfrit	SA	That portion of the creek from Port Royal to U.S. Government Parris Island Bridge
Archers Creek	Bfrit	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 <del>Hurricane Branch to Bacon Bridge</del> Cypress Swamp to the confluence with Popper Dam Creek
Ashley River	Chtn, Dchr	SA	That portion of the river from <del>Bacon Bridge</del> the confluence with Popper Dam Creek to Church Creek
Ashley River	Chtn	SA sp	That portion of the river from Church Creek to Orangegrove Creek (D.O. not less than 4 mg/lL)
Ashley River	Chtn	SA	That portion of the river from Orangegrove Creek to Charleston Harbor
Ashpole Swamp	Dill, Marn	FWsp	The entire swamp tributary to Lumbar River (D.O. not less than 4 mg/lL, 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
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/lL, 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/lL)
Atlantic Intracoastal Waterway	Gtwn	SA SB	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



<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>Atlantic Intracoastal Waterway</b>	Chtn	ORW(SFH)	That portion of the waterway from Gibson Creek along Wadmalaw River and Dawho River to North Creek
<b>Atlantic Intracoastal Waterway</b>	Chtn	ORW(SFH)	That portion of the waterway from North Creek through Watts Cut to South Edisto River
<b>Atlantic Intracoastal Waterway</b>	Chtn, Cltn	ORW(SFH)	That portion of the waterway from South Edisto River at Watts Cut to South Edisto River at Fenwick Cut
<b>Atlantic Intracoastal Waterway</b>	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
<b>Atlantic Intracoastal Waterway</b>	Bfrit, Cltn	SFH	That portion of the waterway from the confluence with St. Helena Sound through the Sound to the confluence with Coosaw River
<b>Atlantic Intracoastal Waterway</b>	Bfrit	SFH	That portion of the waterway from the confluence with Coosaw River along Brickyard Creek to the confluence with Albergottie Creek
<b>Atlantic Intracoastal Waterway</b>	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
<b>Atlantic Intracoastal Waterway</b>	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
<b>Atlantic Intracoastal Waterway</b>	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
<b>Atlantic Intracoastal Waterway</b>	Jspr	SA	That portion of the waterway from the confluence of Ramshorn Creek with New River to Watts Cut and Wright River
<b>Atlantic Intracoastal Waterway</b>	Jspr	SA	That portion of the waterway from Wright River to Mud River to Savannah River
<b>Back River</b>	Bkly	FW	The entire river tributary to Cooper River
<b>Bad Creek</b>	Ocne	ORW(FW)	That portion of the creek from the North Carolina line to Chattooga River
<b>Bad Creek Reservoir</b>	Ocne	FW	The entire reservoir
<b>Bailey Creek</b>	Andn	FW	The entire creek tributary to Rocky Creek
<b>Bailey Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre Creek
<b>Baker Creek</b>	Mcmk	FW	The entire creek tributary to Lake Strom Thurmond
<b>Ballast Creek</b>	Bfrit	SA	That portion of the creek from the tidal node to Beaufort River
<b>Ballast Creek</b>	Bfrit	SFH	That portion of the creek from the tidal node to Broad River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Bartons Branch (also called Summerhouse Branch and Johnsons Swamp)</b>	Gtwn, Wmbg	FWsp	The entire branch tributary to <del>Black River</del> <u>Horse Pen Swamp</u> (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Bass Creek</b>	Bfrit	ORW(SFH)	The entire creek tributary to May River
<b>Bass Hole Bay</b>	Gtwn	ORW(SFH)	The entire bay between Old Man Creek and Debidue Creek
<b>Battery Creek</b>	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
<b>Battery Creek</b>	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
<b>Battle Creek</b>	Ocne	TPGT	The entire creek tributary to Tugaloo River
<b>Bear Creek</b>	Andn	FW	The entire creek tributary to Rocky Creek
<b>Bear Creek</b>	Lctr	FW	The entire creek tributary to Cane Creek
<b>Bear Creek</b>	Newb, Lexi	FW	The entire creek tributary to Lake Murray
<b>Bear Creek</b>	Oene	TN	<del>That portion of the creek from State line to Lake Joeassee</del>
<b>Bear Swamp</b>	Diln	FWsp	The entire swamp tributary to Ashpole Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b><del>Beareamp Creek</del></b>	Oene	TN	<del>That portion of the creek from State line to Lake Joeassee</del>
<b>Beards Fork Creek</b>	Lms	FW	The entire creek tributary to Duncan Creek
<b>Beaufort River</b>	Bfrit	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
<b>Beaufort River</b>	Bfrit	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
<b>Beaver Creek</b>	Andn	FW	The entire creek tributary to Rocky River
<b>Beaver Creek</b>	Krsh	FW	The entire creek tributary to Wateree Lake
<b>Beaverdam Creek</b>	Andn	FW	The entire creek tributary to Rocky River
<b>Beaverdam Creek</b>	Drln, Cfld	FW	The entire creek tributary to Black Creek
<b>Beaverdam Creek</b>	Efld	FW	The entire creek tributary to Turkey Creek
<b>Beaverdam Creek</b>	Gnvl	ORW(FW)	That portion of the creek from its headwaters to Secondary Road 563
<b>Beaverdam Creek</b>	Gnvl	FW	That portion of the creek from Secondary Road 563 to Enoree River
<b>Beaverdam Creek</b>	Lms	FW	The entire creek tributary to Enoree River
<b>Beaverdam Creek</b>	Mrlb	FW	The entire creek tributary to Little Pee Dee River
<b>Beaverdam Creek</b>	York	FW	The entire creek tributary to Crowder's Creek
<b>Beaverdam Creek (also called Irene Creek)</b>	Chke	FW	The entire creek tributary to Thicketty Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Beaverdam Creek</b> (also called <b>Big Beaverdam Creek</b> )	Andn	FW	The entire creek tributary to Rocky River
<b>Bees Creek</b>	Jspr	SB	The entire creek tributary to Coosawhatchie River
<b>Bell Swamp Creek</b>	Diln	FW	The entire creek tributary to Little Pee Dee River
<b>Beresford Creek</b>	Bkly	SFH	That portion of the creek from Wando River to a point 4 miles from Wando River
<b>Beresford Creek</b>	Bkly	SA	That portion of the creek from a point 4 miles from Wando River to Clouter Creek
<b>Betsy Creek</b>	Andn	FW	The entire creek tributary to Beaver Creek
<b>Big Bay Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to South Edisto River
<b>Big Boggy Swamp</b>	Drln	FW	The entire swamp tributary to McIntosh Mill Stream
<b>Big Creek</b>	Andn	FW	The entire creek tributary to Saluda River
<b>Big Dutchmans Creek</b>	Ffld	FW	The entire creek tributary to Lake Wateree
<b>Big Dutchmans Creek</b>	York	FW	The entire creek tributary to Catawba River
<b>Big Generostee Creek</b>	Andn	FW	The entire creek tributary to Savannah River
<b>Big Lake</b>	Rlnd	ORW(FW)	The entire lake within the boundaries of Congaree National Park
<b>Big Pine Tree Creek</b>	Kshw	FW	The entire creek tributary to Wateree River
<b>Big Rock Creek</b>	Gnwd	FW	The entire creek tributary to Wilson Creek
<b>Big Swamp</b>	Flrn	FWsp	The entire swamp tributary to Lynches River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Black Creek</b>	Cfld, Drln, Flrn	FW	That portion of the creek from its headwaters to S.C. 145
<b>Black Creek</b>	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/4L, pH 5.0 – 8.5)
<b>Black Creek</b>	Cfld, Drln, Flrn	FW	That portion of the creek from U.S. 52 to Great Pee Dee River
<b>Black Creek River</b>	Cln, Gtwn, Lee, Smtr, Wmbg	FWsp	That portion of the creek from its headwaters to U.S. 701 (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Black River</b>	Gtwn,	SA	That portion of the river from U.S. 701 to <u>Winyah Bay</u> <u>Pee Dee River</u>
<b>Blue Hill Creek</b>	Abvl	FW	The entire creek tributary to Norris Creek
<b>Bly Creek</b>	Gtwn	ORW(SFH)	The entire creek tributary to Old Man Creek
<b>Bob's Garden Creek</b>	Gtwn	ORW(SFH)	The entire creek tributary to Jones Creek
<b>Boggy Swamp</b>	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)
<b>Bohicket Creek</b>	Chtn	ORW(SFH)	The entire creek tributary from North Edisto River to Church Creek
<b>Boone Hall Creek</b>	Chtn	SFH	The entire creek tributary to Horlbeck Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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
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/lL, 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/lL, pH 5.0 – 8.5)
Buckhorn Creek	Gnvl	ORW(FW)	That portion of the creek from headwaters, including Buckhorn Lake, to North <del>Buckhorn</del> Tanyard Road
Buckhorn Creek	Gnvl	FW	That portion of the creek from North <del>Buckhorn</del> Tanyard Road 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/lL, pH 5.0 – 8.5)
Bull Swamp Creek	Lxtn, Orbg	FW	The entire creek tributary to North Fork Edisto River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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/lL)
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)	Lms, Nbry	FW	The entire creek tributary to Lake Murray
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	Bfrit	SFH	The entire sound tributary to the Atlantic Ocean
Callawassie Creek	Bfrit	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	Pkns	TN	The entire creek tributary to Lake Keowee
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 <del>river</del> creek from its headwaters to Pinnacle Lake
Carrick Creek	Pkns	FW	That portion of the <del>river</del> creek 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	Bfrit	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



Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Caw Caw Swamp	Aldl, Hmpt	FWsp	The entire swamp tributary to Whippy Swamp (D.O. not less than 4 mg/l, 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
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	Bftr	ORW(SFH)	The entire creek tributary to Colleton River and Chechessee River
Chechessee River	Bftr	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/l, pH 5.0 – 8.5)
Choestoea Creek	Ocne	FW	The entire creek tributary to Hartwell Lake
Chowan Creek (also called Cowen Creek)	Bftr	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

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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/lL, pH 5.0 – 8.5)
Clark Creek	York	FW	The entire creek tributary to <del>Bullecks</del> Bullock 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
Coastal Waters	Bftr, 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	Bftr	ORW(SFH)	The entire river tributary to Chechessee River
Combahee River	Bftr, 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	Bftr, 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	Bftr	ORW(SFH)	That portion of the river from New River to Ramshorn Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Cooper River	Bftr	SFH	That portion of the river from Ramshorn Creek to Calibogue Sound
Coosaw River	Bftr	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
Cowpen Swamp	Diln	FWsp	The entire swamp tributary to Bear Swamp (D.O. not less than 4 mg/lL, 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
<del>Crabhaul</del> <u>Crab Haul</u> Creek	Gtwn	ORW(SFH)	The entire creek tributary to Old Man Creek
<del>Crane Creek</del>	<del>Pkns</del>	<del>TN</del>	<del>The entire creek tributary to Lake Keowee</del>
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/lL, 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



Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Devils Fork Creek</b>	Ocne	TN	That portion of the creek from confluence of Corbin Creek and Howard Creek to Lake Jocassee
<b>Dewee's Inlet</b>	Chtn	SFH	The entire inlet tributary to the Atlantic Ocean
<b>Diversion Canal</b>	Bkly	FW	The entire canal between Lake Marion and Lake Moultrie
<b>Doolittle Creek</b>	Chke	FW	The entire creek tributary to Broad River
<b>Double Branch</b>	Abvl	FW	The entire branch tributary to Long Cane Creek
<b>Double Branch</b>	Lxtn	FW	The entire branch tributary to Saluda River
<b>Douglas Swamp</b>	Clrn, Flrn, Smtr	FWsp	The entire swamp tributary to Pudding Swamp (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Dry Branch</b>	Rlnd	ORW (FW)	That portion of the stream beginning at the boundary of the Congaree National Park to Weston Lake
<b>Dry Branch</b>	Rlnd	FW	That portion of the branch outside the boundary of the Congaree National Park
<b>Dry Fork</b>	Cstr	FW	The entire fork tributary to Sandy River
<b>Duck Creek</b>	Aldl	FW	The entire creek tributary to Coosawhatchie River
<b>Duck Creek</b>	Gtwn	ORW(SFH)	The entire creek tributary to Jones Creek
<b>Duck Island Channel</b>	Chtn	SA sp	The entire channel connecting two segments of the Ashley River (D.O. not less than 4 mg/lL)
<b>Duncan Creek</b>	Lms, Nbry	FW	The entire creek tributary to Enoree River
<b>Duncan Creek</b>	Lxtn	FW	The entire creek tributary to Chinquapin Creek
<b>Dunn Sound</b>	Hory	SFH	The entire sound
<b>Durbin Creek</b>	Gnvl, Lms	FW	The entire creek tributary to Enoree River
<b>Dye Branch (also called Dry Branch)</b>	York	FW	The entire branch tributary to Jones Branch
<b>Eagle Creek</b>	Chtn	SB	The entire creek tributary to Ashley River
<b>Eastatoe Creek</b>	Pkns	ORW(FW)	That portion of the creek from its headwaters to its confluence with Laurel Creek
<b>Eastatoe Creek</b>	Pkns	TPGT	That portion of the creek from its confluence with Laurel Creek to Lake Keowee
<b>East Beards Creek</b>	Andn	FW	The entire creek tributary to Wilson Creek
<b>East Fork (also called Fork Creek)</b>	Cfld	FW	The entire creek tributary to Lynches River
<b>East Fork Chattooga River</b>	Ocne	ORW(FW)	That portion of the river from the North Carolina line to its confluence with Indian Camp Branch
<b>East Fork Chattooga River</b>	Ocne	TN	That portion of the river from its confluence with Indian Camp Branch to Chattooga River
<b>East Rock Creek</b>	Andn	FW	The entire creek tributary to Broadway Creek
<b>Edisto River</b>	Chtn, Cltn	ORW(FW)	That portion of the river from U.S. 17 to its confluence with Dawho River and South Edisto River
<b>Edisto River (Main Stem)</b>	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>U.S. 17</u>

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Eighteen Mile Creek</b>	Pkns, Andn	FW	The entire creek tributary to Hartwell Lake
<b>Emory Creek</b>	Pkns	ORW(FW)	That portion of the creek from its headwaters to the northern boundary of Table Rock Resort property
<b>Emory Creek</b>	Pkns	TN	That portion of the creek from northern boundary of Table Rock Resort property to its confluence with Oolenoy River
<b>Enoree River</b>	Gnvl, Spbg, Lrns, Unin, Nbry	FW	The entire river tributary to Broad River
<b>Fairforest Creek</b>	Spbg, Unin	FW	The entire creek tributary to Tyger River
<b>Fall Creek</b>	Ocne	FW	The entire creek tributary to Chattooga River
<b>Falls Creek</b>	Gnvl	ORW(FW)	That portion of the creek from its headwaters to Lake Trammell
<b>Falls Creek</b>	Gnvl	TN	That portion of the creek from the dam at Lake Trammell to Gap Creek
<b>Fields Cut</b>	Jspr	SA	The entire stream
<b>Filbin Creek</b>	Chtn	FW	<u>That portion of the creek from its headwaters to the tide gates at Virginia Avenue</u>
<b>Filbin Creek</b>	Chtn	SB	<u>That portion of the creek from the tide gates at Virginia Avenue to Cooper River</u>
<b>First Creek</b>	Lxtn	FW	The entire creek tributary to Congaree Creek
<b>Fishing Creek</b>	Cstr, York	FW	The entire creek tributary to Catawba River
<b>Fishing Creek</b>	Chtn	ORW(SA)	That portion of the creek from its headwaters to a point 2 miles from its mouth
<b>Fishing Creek</b>	Chtn	ORW(SFH)	That portion of the creek from a point 2 miles from its mouth to its confluence with St. Pierre Creek
<b>Fishing Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to Dawho River
<b>Fishing Creek Lake</b>	Cstr, Lntn	FW	The entire lake on Catawba River
<b>Fishtrap Branch</b>	Ocne	FW	The entire branch tributary to Chattooga River
<b>Five Fathom Creek</b>	Chtn	SFH	The entire creek tributary to Bull's Bay
<b>Flagreed Creek</b>	Abvl	FW	The entire creek tributary to Calhoun Creek
<b>Folly River</b>	Chtn	SFH	The entire river tributary to Stono river
<b>Fork Creek</b>	Cfld	FW	The entire creek tributary to Lynches River
<b>Foster Creek</b>	Chtn	SFH	The entire creek tributary to Wando River
<b>Four Hole Swamp</b>	Orbg, Dchr, Bkly, Clhn	FWsp	The entire swamp tributary to Edisto River (D.O. not less than 4 mg/H <sub>2</sub> , pH 5.0 – 8.5)
<b>Four Mile Creek</b>	Orbg	FW	The entire creek tributary to North Fork Edisto River
<b>Foreteen Mile Creek</b>	Lxtn	FW	The entire creek tributary to Twelve-Mile Creek
<b>Frampton Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to Frampton Inlet
<b>Frampton Inlet</b>	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
<b>Fripps Inlet</b>	Bfrit	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
<b>Frohawk Creek</b>	Spbg	FW	The entire creek tributary to South Tyger River
<b>Gaffney Creek</b>	Chke	FW	The entire creek tributary to Broad River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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
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/lL, 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
Great Pee Dee River	Cfld, Diln, Drln, Flrn, Marn, Mrlb, Wmbg	FW	<u>That portion of the river from North Carolina line to its confluence with Thoroughfare Creek</u>
Great Pee Dee River	Gtwn	SB sp	<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/lL, 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/lL, 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

<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>Harbor River</b>	Bft	ORW(SFH)	The entire river tributary to St. Helena Sound and Fripps Inlet
<b>Hard Labor Creek</b>	Gnwd, Mcmk	FW	The entire creek tributary to Stevens Creek
<b>Harris Mill Branch</b>	Gnwd	FW	The entire branch tributary to Rocky Creek
<b>Hartwell Lake (NDZ)</b>	Andn, Ocne, Pkns	FW	All that portion within South Carolina
<b>Haulover Creek</b>	Gtwn	SB	The entire creek between Mud Bay and Jones Creek
<b>Hawe Creek</b>	Mcmk	FW	The entire creek tributary to Lake Strom Thurmond
<b>Hayes Swamp</b>	Diln	FWsp	The entire swamp tributary to Little Pee Dee River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Head Foremost Creek</b>	Gnvl	ORW(FW)	The entire creek tributary to Middle Saluda River
<b>Hellhole Creek</b>	Lxtn	FW	The entire creek tributary to Lightwood Knot Creek
<b>Hembree Creek</b>	Andn	FW	The entire creek tributary to Hartwell Lake
<b>Hemedy Creek (also called Ramsey Creek)</b>	Ocne	FW	The entire creek tributary to Chauga River
<b>Hencoop Creek</b>	Andn	FW	The entire creek tributary to Rocky Creek
<b>Hobcaw Creek</b>	Chtn	SFH	The entire creek tributary to Wando River
<b>Hog Inlet/Cherry Grove Inlet</b>	Hory	SFH	The entire inlet
<b>Hollow Creek</b>	Lxtn	FW	The entire creek tributary to Lake Murray
<b>Horlbeck Creek</b>	Chtn	SFH	The entire creek tributary to Wando River
<b>Horse Creek</b>	Aikn	FW	The entire creek tributary to Savannah River
<b>Howard Creek</b>	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
<b>Howard Creek</b>	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
<b>Hunting Swamp</b>	Hory	FW	The entire swamp tributary to Little Pee Dee River
<b>Husbands Creek</b>	Mrlb	FW	The entire creek tributary to Pee Dee River
<b>Indian Camp Branch</b>	Ocne	ORW(FW)	The entire branch tributary to East Fork Chattooga River
<b>Indian Creek</b>	Lrns	FW	The entire creek tributary to Enoree River
<b>Indian Field Swamp</b>	Dchr, Orbg	FWsp	The entire swamp tributary to Polk Swamp (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Ira Branch</b>	Ocne	ORW(FW)	The entire branch tributary to the Chattooga River
<b>Irene Creek</b>	Chke	FW	The entire creek tributary to Thicketty Creek



Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>J. Strom Thurmond Lake (also called Clarks Hill Reservoir) (NDZ)</b>	Abvl, Mcmk	FW	The entire lake on Savannah River
<b>Jackies Branch</b>	Pkns	TN	The entire branch tributary to the confluence with Laurel Fork Creek
<b>Jacks Creek</b>	Ocne	ORW(FW)	The entire creek tributary to the East Fork Chattooga River
<b>Jackson Branch</b>	Aldl, Hmpt	FW	The entire branch tributary to Whippy Swamp
<b>Jackson Creek</b>	Ffld	FW	The entire creek tributary to Little River
<b>Jackson Creek</b>	Rlnd	FW	The entire creek tributary to Gills Creek
<b>Jacobs Creek</b>	Lrns	FW	The entire creek tributary to Sand Creek
<b>Jeffries Creek</b>	Drln, Flrn	FWsp	The entire creek tributary to Pee Dee River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
<b>Jeremy Inlet</b>	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
<b>Jericho Creek</b>	Bftr	SA	The entire creek tributary to Battery Creek
<b>Jerry Creek</b>	Ocne	FW	The entire creek tributary to Chauga River
<b>Jimmies Creek</b>	Spbg	FW	The entire creek tributary to the Tyger River
<b>Johnson Creek</b>	Bftr	ORW(SFH)	The entire creek tributary to Harbor River and the Atlantic Ocean
<b>Johnsons Swamp (also called Summerhouse Branch and Bartons Branch)</b>	Gtwn, Wmbg	FWsp	The entire swamp tributary to <del>Black River</del> <u>Horse Pen Swamp</u> (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
<b>Jones Creek</b>	Gtwn	SB	That portion of the creek from its confluence with Mud Bay to its confluence with Nancy Creek
<b>Jones Creek</b>	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
<b>Jones Creek</b>	Gtwn	ORW(SFH)	That portion of the creek from a point midway between its confluence with Duck Creek and Noble Slough to North Inlet
<b>Jordan Branch</b>	Brwl	FW	The entire branch tributary to Toby Creek
<b>Julian Creek</b>	Gnvl	ORW(FW)	The entire creek tributary to Matthews Creek
<b>Jumping Branch</b>	Ocne	TN	That portion of the branch From its headwaters to Lake Cherokee
<b>Kate Fowler Branch</b>	Gnwd	FW	The entire branch tributary to Ninety-Six Creek
<b>Kellers Creek</b>	Abvl	FW	The entire creek tributary to McCord Creek
<b>Kelsey Creek</b>	Spbg	FW	The entire creek tributary to Fairforest Creek
<b>Kilgore Branch</b>	Drln	FW	The entire branch tributary to Black Creek
<b>King Creek</b>	Ocne	ORW(FW)	The entire creek tributary to Chattooga River
<b>Kinley Creek</b>	Lxtn	FW	The entire creek tributary to Saluda River
<b>Knox Creek</b>	Ocne	FW	That portion of the creek from Lake Cheohee Dam to the confluence with Cheohee Creek
<b>Koon Branch</b>	Lxtn	FW	The entire branch tributary to Rawls Creek
<b>Lake Cheohee</b>	Ocne	FW	The entire lake

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Lake Cherokee (also called Lake Isaquenna)	Ocne	FW	The entire lake
Lake Greenwood	Gnwd, Lrms, 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
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	Lrms	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)

<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>Lemon Creek</b>	Bmbg	FWsp	The entire creek tributary to Little Salkehatchie River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Lick Creek</b>	Lrms	FW	The entire creek tributary to North Rabon Creek
<b>Lick Log Creek</b>	Ocne	FW	That portion of the creek from its headwaters through Thrift Lake
<b>Lick Log Creek</b>	Ocne	ORW(FW)	That portion of the creek from Thrift Lake to Chattooga River
<b>Lightwood Knot Creek</b>	Lxtn	FW	The entire creek tributary to North Fork Edisto River
<b>Limber Pole Creek</b>	Ocne	TN	The entire creek tributary to Devils Fork Creek
<b>Limestone Creek</b>	Chke	FW	The entire creek tributary to Broad River
<b>Little Beaverdam Creek</b>	Andn	FW	The entire creek tributary to Rocky River
<b>Little Boggy Swamp</b>	Drln	FW	The entire swamp tributary to Big Boggy Swamp
<b>Little Eastatoe Creek</b>	Pkns	TPGT	That portion of the creek from its headwaters to its confluence with Eastatoe Creek
<b>Little Fork Creek</b>	Cfld	FW	The entire creek tributary to East Fork or Fork Creek
<b>Little Horse Creek</b>	Aikn	FW	The entire creek tributary to Horse Creek
<b>Little Jones Creek</b>	Gtwn	SFH	The entire creek tributary to Jones Creek
<b>Little Lynches River (also called Lynches Creek)</b>	Krsh, Lctr	FW	The entire river tributary to Lynches River
<b>Little Pee Dee River</b>	Diln, Marn, Mrlb	FW	That portion from its headwaters to the confluence with Lumber River
<b>Little Pee Dee River</b>	Hory, Marn	ORW(FW)	That portion of the river from the confluence with Lumber River to the confluence with Great Pee Dee River
<b>Little Pine Tree Creek</b>	Krsh	FW	The entire creek tributary to Big Pine Tree Creek
<b>Little River</b>	Abvl, Mcmk	FW	The entire river tributary to Lake Strom Thurmond
<b>Little River</b>	Ffld	FW	The entire river tributary to Broad River
<b>Little River</b>	Lrms, Nbry	FW	The entire river tributary to Saluda River
<b>Little River</b>	Ocne	FW	The entire river tributary to Lake Hartwell
<b>Little River Inlet</b>	Hory	SFH	The entire inlet from its confluence with the Atlantic Intracoastal Waterway to its confluence with the Atlantic Ocean
<b>Little Salkehatchie River</b>	Bmbg, Cltn	FW	The entire river tributary to Salkehatchie River
<b>Little Saluda River</b>	Slda	FW	The entire river tributary to Lake Murray
<b>Little Sandy River</b>	Cstr	FW	The entire river tributary to Sandy River
<b>Little Thicketty Creek</b>	Chke	FW	The entire creek tributary to Thicketty Creek
<b>Long Branch</b>	Abvl, Andn	FW	The entire branch tributary to Rocky River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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
Lumber River	Diln, Hory, Marn	FW	The entire river tributary to Little Pee Dee River
Lynches Lake (also called Lake Swamp)	Flrn, Wmbg	FWsp	The entire lake (D.O. not less than 4 mg/lL, 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/lL, 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/lL, 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	Bftr	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 Stream	Mill	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



<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>McKinneys Creek</b>	Ocne	FW	That portion of the creek from Hwy 25 to Lake Keowee
<b>McLeod Creek (also called Tom Point Creek)</b>	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
<b>Meings Creek (also called Meng Creek)</b>	Unin	FW	The entire creek tributary to Broad River
<b>Middle Branch</b>	Flrn	FWsp	The entire branch tributary to Jeffries Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Middle Pen Swamp</b>	Orbg	FWsp	The entire swamp tributary to Four Hole Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Middle Saluda River</b>	Gnvl	ORW(FW)	That portion of the river from its headwaters to the end of State Land at Jones Gap State Park land
<b>Middle Saluda River</b>	Gnvl	TN	That portion of the river from Jones Gap State Park land to Oil Camp Creek
<b>Middle Swamp</b>	Drln, Flrn	FWsp	The entire swamp tributary to Jeffries Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
<b>Middle Tyger River</b>	Gnvl, Spbg	FW	The entire river tributary to North Tyger River
<b>Mill Branch</b>	Orbg	FW	The entire branch tributary to North Fork Edisto River
<b>Mill Creek</b>	Chke	FW	The entire creek tributary to Limestone Creek
<b>Mill Creek</b>	Ffld	FW	The entire creek tributary to Little River
<b>Mill Creek</b>	Gnvl	FW	That portion of the creek from its headwaters to the end of Pleasant Ridge State Park land including the unnamed lake
<b>Mill Creek</b>	Ocne	TN	That portion of the creek from its headwaters to Burgess Creek
<b>Mill Creek</b>	Pkns	TPGT	The entire creek tributary to Eastatoe Creek
<b>Mill Creek</b>	Rlnd	FW	The entire creek tributary to Congaree River
<b>Mill Creek</b>	Spbg	FW	The entire creek tributary to Enoree River
<b>Mill Creek</b>	Smttr	FW	The entire creek tributary to Lake Marion
<b>Millpond Branch</b>	Flrn	FW	The entire branch tributary to Lynches River
<b>Milton Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to <del>St. Pierre</del> Shingle Creek
<b>Mine Creek</b>	Slida	FW	The entire creek tributary to Little Saluda River
<b>Mitchell Creek</b>	Unin	FW	The entire creek tributary to Fairforest Creek
<b>Molasses Creek</b>	Chtn	SFH	The entire creek tributary to Wando River
<b>Moody Creek</b>	Ocne	TN	That portion of the creek from its headwaters to its confluence with Cantrell Creek
<b>Morgan River</b>	Bftr	SFH	The entire river tributary to St. Helena Sound
<b>Mosquito Creek</b>	Cltn	ORW(SFH)	That portion of the creek from Bull Cut to South Edisto River
<b>Moss Mill Creek</b>	Ocne	ORW(FW)	The entire creek tributary to Chattooga River
<b>Mountain Creek</b>	Gnvl	FW	The entire creek tributary to Enoree River
<b>Mountain Creek</b>	Lrns	FW	The entire creek tributary to North Rabon Creek
<b>Mud Creek—(also called Fields Cut)</b>	Chtn	ORW(SFH)	The entire creek tributary to South Edisto River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Mud River</b>	Jspr	SA	<del>The entire river between Savannah River and Wright River</del>
<b>Mud Creek</b>	Gtwn	SFH	The entire creek between Oyster Bay and Town Creek
<b>Mud River (also called Fields Cut)</b>	Jspr	SA	<del>The entire river between Savannah River and Wright River</del>
<b>Muddy Creek</b>	Flm, Wmbg	FWsp	The entire creek tributary to <del>Clarks</del> <u>Clark</u> Creek (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Murrells Inlet</b>	Gtwn	SFH	The entire inlet tributary to the Atlantic Ocean
<b>Myers Creek</b>	Rlnd	FW	That portion of the creek outside the boundary of the Congaree National Park
<b>Myers Creek</b>	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of the Congaree National Park to its confluence with Cedar Creek
<b>Naked Creek</b>	Mrlb	FW	The entire creek tributary to Pee Dee River
<b>Nancy Creek</b>	Gtwn	SB	The entire creek tributary to Jones Creek
<b>New Chehaw River</b>	Cltn	SFH	The entire river tributary to St. Helena Sound
<b>New Cut</b>	Chtn	SFH	The entire cut between Church Creek and Stono River
<b>New River</b>	Bfirt, Jspr	SA	The entire river tributary to the Atlantic Ocean
<b>Newman Swamp</b>	Drln	FWsp	The entire swamp tributary to Sparrow Swamp (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Ninety Six Creek</b>	Gnwd	FW	The entire creek tributary to Wilson Creek
<b>No Mans Friend Creek</b>	Gtwn	SB	The entire creek between Mud Bay and Oyster Bay
<b>Noble Slough</b>	Gtwn	SB	The entire slough between Oyster Bay and Jones Creek
<b>Norris Creek</b>	Abvl	FW	The entire creek tributary to Long Cane Creek
<b>North Edisto River</b>	Chtn	ORW(SFH)	That portion of the river from its headwaters to the Altantic Intracoastal Waterway
<b>North Edisto River</b>	Chtn	SFH	That portion of the river from the Atlantic Intracoastal Waterway to Steamboat Creek
<b>North Edisto River</b>	Chtn	ORW(SFH)	That portion of the river from Steamboat Creek to the Altantic Ocean
<b>North Fork Edisto River</b>	Aikn, Lxtn, Orbg	FW	The entire river tributary to Edisto River
<b>North Fork Little River</b>	Ocne	TPGT	That portion of the river from the confluence of Mill Creek and Burgess Creek to Hwy 11
<b>North Fork Little River</b>	Ocne	FW	Tht portion of the river from Hwy 11 to its confluence with Little River
<b>North Inlet</b>	Gtwn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
<b>North Pacolet River</b>	Spbg	FW	The entire river tributary to Pacolet River
<b>North Rabon Creek</b>	Lrns	FW	The entire creek tributary to Rabon Creek
<b>North Saluda River</b>	Gnvl	ORW(FW)	That portion of the river from its headwaters to S.C. 42
<b>North Saluda River</b>	Gnvl	FW	That portion of the river from S.C. 42 to Saluda River
<b>North Santee River</b>	Gtwn	FW	That fresh water portion of the river

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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
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	Bftr	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	Bftr	SFH	The entire creek tributary to Fripps Inlet
Old Man Creek	Gtwn	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	Gtwn	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, Flm, Mam, Mrlb, Wmbg	FW	That portion of the river from North Carolina line to its confluence with Thoroughfare Creek
Pee Dee River	Gtwn	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

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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/lL, pH 5.0 – 8.5)
Pocalla Creek	Smtr	FWsp	The entire creek tributary to Pocotaligo River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
Pocotaligo River	Clrn, Smtr	FWsp	The entire river tributary to Black River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
Polk Swamp	Dchr, Orbg	FWsp	The entire swamp tributary to Edisto River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
Port Royal Sound	Bftr	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/lL, pH 5.0 – 8.5)
Pye Branch	Flrn	FWsp	The entire branch tributary to Jeffries Creek (D.O. not less than 4 mg/lL, 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	Bftr	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	<del>The entire branch tributary to Middle Saluda River</del>
Rock Creek	Pkns	TN	That portion of the creek within South Carolina
Rocky Bluff Swamp	Lee, Smtr	FWsp	The entire swamp tributary to <del>Black River</del> <u>Scape Ore Swamp</u> (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
Rocky Bottom Creek	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
Rocky Branch	Gnvl	TN	The entire branch tributary to Middle Saluda River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
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
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
<del>Russell</del> Russel Creek	Chtn	ORW(SFH)	The entire creek tributary to <del>Dawho</del> RiverSteamboat Creek
St. Helena Sound	Bftr, 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 the confluence with the Little Salkehatchie River to saltwater intrusion at U.S. Hwy 17
Salkehatchie River	Bftr, 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, Slda	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/l, a running thirty day average of 5.5 mg/l, with a low of 4.0 mg/l)
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 theThe entire river from saltwater intrusion to Winyah Bay
Sampson Island Creek	Cltn	ORW(SFH)	The entire creek tributary to South Edisto RiverMosquito Creek
Sand Creek	Ffld	FW	The entire creek tributary to Jackson Creek
Sand Creek	Lrns	FW	The entire creek tributary to Dunean CreekMillers Fork
Sand Creek	Chtn	ORW(SFH)	The entire creek tributary to Steamboat Creek

<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>Sanders Branch</b>	Hmpt	FWsp	The entire branch tributary to Coosawatchie River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Sanders Creek</b>	Krsh	FW	The entire creek tributary to Wateree River
<b>Sandy River</b>	Cstr	FW	The entire creek tributary to Broad River
<b>Santee River</b>	Bkly, Clrn, Gtwn, Wmbg	FW	That portion of the river below Lake Marion to North and South Santee Rivers
<b>Santee River</b>	Clhn, Smtr	FW	From junction of Congaree and Wateree Rivers to Lake Marion
<b>Santee River (North and South)</b>	Bkly, Chtn, Gtwn		See North Santee River and South Santee River (Berkeley, Charleston, and Georgetown Counties)
<b>Savannah Creek</b>	Bmbg, Cltn	FW	The entire creek tributary to Salkehatchie River
<b>Savannah Creek</b>	Hory	FW	The entire creek tributary to Chinnors Swamp
<b>Savannah River</b>	Abvl, Andn	TPGT	That portion of the river from Lake Hartwell Dam to the headwaters of Lake Russell
<b>Savannah River</b>	Abvl, Aikn, Aldl, Andn, Brwl, Efld, Hmpt, Mcmk	FW	That portion of the river from the headwaters of Lake Russell to Seaboard Coastline RR
<b>Savannah River</b>	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/lL and minimum 4 mg/lL)
<b>Savannah River</b>	Jspr	SA	That portion of the river from Ft. Pulaski to the Atlantic Ocean
<b>Sawhead Branch</b>	Ocne	FW	The entire branch tributary to Opossum Creek
<b>Sawmill Branch</b>	Bkly, Dchr	FW	The entire branch tributary to Dorchester Creek
<b>Sawmill Creek</b>	Bfrt	ORW(SFH)	The entire creek tributary to Colleton River
<b>Sawney Creek</b>	Abvl, Mcmk	FW	The entire creek tributary to Little River
<b>Sawneys Creek</b>	Ffld, Kshw	FW	The entire creek tributary to Wateree River
<b>Schewbough Branch (also called Skeebo Branch)</b>	Hory	FWsp	The entire branch tributary to the North Carolina line (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Scott Creek</b>	Nbry	FW	The entire creek tributary to Bush River
<b>Scott Creek</b>	Chtn	ORW(SFH)	The entire creek from Big Bay Creek to Jeremy Inlet
<b>Scouter Creek</b>	Lxtn	FW	The entire creek tributary to Congaree Creek
<b>Sea Creek Bay</b>	Gtwn	ORW(SFH)	The entire bay tributary to Old Man Creek
<b>Second Creek</b>	Lxtn	FW	The entire creek tributary to First Creek
<b>Sewee Bay</b>	Chtn	SFH	The entire bay
<b>Shanklin Creek</b>	Andn	FW	The entire creek tributary to Three and Twenty Mile Creek
<b>Shaver Creek (also called Cheves Creek)</b>	Efld	FW	The entire creek tributary to Stevens Creek
<b>Shaw Creek</b>	Aikn, Efld	FW	The entire creek tributary to South Fork Edisto River
<b>Shell Creek</b>	Lrns	FW	The entire creek tributary to Bush River



Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<b>Shem Creek</b>	Chtn	SB	The entire creek tributary to Charleston Harbor
<b>Shingle Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre Creek
<b>Shoulder Bone Branch</b>	Ocne	FW	The entire branch tributary to Sawhead Branch
<b>Side of Mountain Creek</b>	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
<b>Silver Brook Creek</b>	Andn	FW	The entire creek tributary to Rocky River
<b>Six Mile Creek</b>	Lxtn	FW	The entire creek tributary to Congaree Creek
<b>Six and Twenty Creek</b>	Andn	FW	The entire creek tributary to Lake Hartwell
<b>Sixty Bass Creek</b>	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
<b>Sixty Bass Creek</b>	Gtwn	ORW(SFH)	That portion of the creek from a point 0.4 miles from its confluence with Town Creek to North Inlet
<b>Skeebo Branch</b>	Hory	FWsp	The entire branch tributary to the North Carolina line (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Slatten Branch</b>	Ocne	ORW(FW)	The entire branch tributary to East Fork Chattooga River
<b>Smeltzer Creek</b>	Ocne	TN	That portion of the creek from its headwaters to Hwy 130
<b>Smeltzer Creek</b>	Ocne	TPGT	That portion of the creek from Hwy 130 to North Fork Little River
<b>Smith Branch</b>	Rlnd	FW	The entire branch tributary to Broad River
<b>Smith Swamp</b>	Marn	FWsp	The entire swamp tributary to Catfish Creek (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>South Creek</b>	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
<b>South Edisto River</b>	Chtn, Cltn	ORW(SFH)	That portion of the river from Dawho River to Mud Creek
<b>South Edisto River</b>	Chtn, Cltn	SFH	That portion of the river from Mud Creek to the Atlantic Ocean
<b>South Fork Edisto River</b>	Aikn, Bmbg, Brwl, Efld, Orbg	FW	The entire river tributary to North Fork Edisto River
<b>South Fork Kings Creek</b>	Nbry	FW	The entire creek tributary to Enoree River
<b>South Pacolet River</b>	Gnvl, Spbg	TN	That portion of the river from its headwaters to Hwy 116
<b>South Pacolet River</b>	Gnvl, Spbg	FW	That portion of the river from Hwy 116 to Pacolet River
<b>South Rabon Creek</b>	Gnvl, Lms	FW	The entire creek tributary to Rabon Creek
<b>South Saluda River</b>	Gnvl, Pkns	ORW(FW)	That portion of the river from its headwaters to Table Rock Reservoir Dam
<b>South Saluda River</b>	Gnvl, Pkns	TPGT	That portion of the river from Table Rock Reservoir Dam to Hwy 8

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
South Saluda River	Gnvl, Pkns	FW	That portion of the river from Hwy 8 to junction with North Saluda River
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/4L, 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, Lrms	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	Bftr	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 <del>Edisto</del> Wadmalaw River
<del>Toms Creek</del> Branch	Lxtn	FW	The entire <del>creek</del> branch 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 <del>Edisto</del> 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	Bftr	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/L, 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 (Fripps Island) Tributary to Fripps Inlet	Bftr	SFH	The entire creek tributary to Fripps Inlet
Unnamed Creek (Old Island) Tributary to Fripps Inlet	Bftr	SFH	The entire creek tributary to Fripps Inlet

<b>Waterbody Name</b>	<b>County(ies)</b>	<b>Class</b>	<b>Waterbody Description and (Site-Specific Standard)</b>
<b>Unnamed Creek (St. Helena Island) Tributary to Harbor River</b>	Bfrit	SFH	The entire creek tributary to Harbor River
<b>Unnamed Creek (Harbor River) Tributary to St. Helena Sound</b>	Bfrit	SFH	The entire creek tributary to St. Helena Sound
<b>Unnamed Creeks, Ponds, or Lakes</b>	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
<b>Unnamed Creeks, Ponds, or Lakes</b>	Rlnd	ORW(FW)	All portions of waters and waters located wholly within the boundary of the Congaree National Park
<b>Unnamed Swamp (Near North, S.C.)</b>	Orbg	FWsp	The entire swamp tributary to North Fork Edisto River (D.O. not less than 4 mg/lL, pH 5.0 – 8.5)
<b>Vaughn Creek</b>	Gnvl	ORW(FW)	The entire creek tributary to Lake Lanier
<b>Waccamaw River</b>	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/lL, pH 5.0 – 8.5)
<b>Waccamaw River</b>	Gtwn	SA sp	That portion of the river from its confluence with Thoroughfare Creek to Winyah Bay (D.O. not less than 4 mg/lL)
<b>Wadmalaw River</b>	Chtn	ORW(SFH)	The entire river from Wadmalaw Sound to North Edisto River
<b>Wadmalaw Sound</b>	Chtn	ORW(SFH)	The entire sound
<b>Wagner Creek</b>	Chtn	SFH	The entire creek tributary to Wando River
<b>Walker Branch</b>	Ffld	FW	The entire branch tributary to Big DutchmanCreek
<b>Wando River</b>	Bkly, Chtn	SFH	That portion from its headwaters to a point 2.5 miles north of its confluence with Cooper River
<b>Wando River</b>	Bkly, Chtn	SA	That portion from a point 2.5 miles north of its confluence with Cooper River to its confluence with Cooper River
<b>Wapoo Creek</b>	Chtn	SB	The entire creek tributary to Stono River
<b>Ward Creek</b>	Bfrit	SFH	The entire creek tributary to Harbor River
<b>Warrior Creek</b>	Lrns	FW	The entire creek tributary to Enoree River
<b>Wateree Lake</b>	Ffld, Krsh, Lctr	FW	The entire lake on Catawba-Wateree River
<b>Wateree River</b>	Cstr, Ffld, Krsh, Lctr, Rlnd, Smtr, York	FW	See Catawba-Wateree
<b>Watts Mill Branch</b>	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	Bft	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 <del>Pee Dee River</del> Swamp of Little Pee Dee River (D.O. not less than 4 mg/L, 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 <del>Steamboat</del> Sand 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 <del>South Fork</del> Edisto <del>Little</del> River (D.O. not less than 4 mg/L, 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	Gtn	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	<del>That portion of the creek from its headwaters to its intersection with S.C. Hwy 110</del> The entire creek tributary to Island Creek

**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 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 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 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 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(A)(3)(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 amends R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and description.

Date: November 7, 2019

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

From: Bureau of Land and Waste Management

**Re: Public Hearing for Notice of Final Regulation Amending R.61-79, *Hazardous Waste Management Regulations*, Document No. 4882**

## **I. Introduction**

The Bureau of Land and Waste Management (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-79, *Hazardous Waste Management Regulations*, for publication in the November 22, 2019, *South Carolina State Register* (“*State Register*”). Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. Section 44-56-30, which authorizes the Department of Health and Environmental Control (“Department”) to promulgate hazardous waste management 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(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 November 22, 2019, publication in the *State Register*.

## **II. Facts**

1. The Bureau proposes amending R.61-79, *Hazardous Waste Management Regulations*, to adopt three final United States Environmental Protection Agency (“EPA”) rules published in the Federal Register. The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent. The rules are as follows: the “Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule,” published on May 30, 2018, at 83 FR 24664-24671; the “Confidentiality Determinations for Hazardous Waste Export and Import Documents,” published on December 26, 2017, at 82 FR 60894-60901; and the “Hazardous Waste Electronic Manifest System User Fee; Final Rule,” published on January 3, 2018, at 83 FR 420-462.

2. The Department had a Notice of Drafting published in the March 22, 2019, *State Register*.

3. Appropriate Department staff conducted an internal review of the proposed amendments on March 28, 2019.

4. The Bureau conducted an outreach meeting on May 3, 2019, with the Solid Waste Ad Hoc group, members from the South Carolina Chamber Environmental Technical Committee (specifically, the Solid Waste subcommittee), and the South Carolina Manufacturers Association. The Bureau also provided notice to interested parties *via* email.

5. The Department had a Notice of Proposed Regulation published in the May 24, 2019, *State Register*. The Department did not receive any comments during the public comment period, which ended on June 24, 2019.

### III. Request for Approval

The Bureau of Land and Waste Management respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-79, *Hazardous Waste Management Regulations*, for legal effect as of November 22, 2019, publication in the *State Register*.

  
Henry Porter  
Chief, Bureau of Land and Waste Management

  
Myra Reece  
Director of Environmental Affairs

Attachment:  
A. Notice of Final Regulation



## ATTACHMENT A

### STATE REGISTER NOTICE OF FINAL REGULATION FOR R.61-79, *Hazardous Waste Management Regulations*

November 7, 2019

Document No. 4882

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

Statutory Authority: 1976 Code Section 44-56-30

61-79. Hazardous Waste Management Regulations.

#### **Synopsis:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79 to adopt three final United States Environmental Protection Agency (“EPA”) rules published in the Federal Register. The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent. The “Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule,” published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act (“RCRA”) and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The “Confidentiality Determinations for Hazardous Waste Export and Import Documents,” published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The “Hazardous Waste Electronic Manifest System User Fee; Final Rule,” published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of these rules is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

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

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*.

**Instructions:** Amend R.61-79 pursuant to each individual instruction provided with the text of the amendments below.

~~Indicates Matter Stricken~~

Indicates New Matter

#### **Text:**

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Ann. Section 44-56-30

**Revise 61-79.260. Table of Contents, Subpart A to read:**

Subpart A. General

260.1. Purpose, scope, and applicability.

260.2. Availability of information; confidentiality of information.

260.3. Use of number and gender.

260.4. Manifest copy submission requirements for certain interstate waste shipments.

260.5. Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

**Revise 61-79.260.2(b) to read:**

(b) ~~Except as provided under paragraphs (c) and (d) of this section, any person who submits information to the Department in accordance with R.61-79.260 through R.61-79.266 and R.61-79.268 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in S.C. Code Ann Sections 30-4-10 et seq. and 40 CFR 2.203(b). Information covered by such a claim will be disclosed by the Department only to the extent, and by means of the provisions contained in the Freedom of Information Acts SCS.C. Code Ann Sections 30-4-10 et seq., and by means of the procedures, set forth in 40 CFR Chapter 1, part 2, subpart B, except that information required by 262.53(a) and 262.83 that is submitted in a notification of intent to export a hazardous waste will be provided to the Department of State and the appropriate authorities in the transit and receiving or importing country regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by the Department, it may be made available to the public without further notice to the person submitting it~~ (revised 12/92; 12/93) of this chapter.

**Add 61-79.260.2(d) to read:**

(d)(1) After June 26, 2018, no claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under sections 261.39(a)(5) and 261.41(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under sections 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, and 265.71, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(2) EPA will make any cathode ray tube export documents prepared, used and submitted under sections 261.39(a)(5) and 261.41(a), and any hazardous waste export, import, and transit documents prepared, used and submitted under sections 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, and 265.71, available to the public under this section when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

**Add 61-79.260.4. to read:**

**260.4. Manifest copy submission requirements for certain interstate waste shipments.**

(a) In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise

be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

(1) Complete the facility portion of the applicable manifest;

(2) Sign and date the facility certification;

(3) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and

(4) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in R.61-79.264 subpart FF.

**Add 61-79.260.5. to read:**

**260.5. Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.**

(a) For purposes of this section, “state-only regulated waste” means:

(1) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or

(2) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

(b) In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

(1) Comply with the provisions of sections 264.71 (use of the manifest) and 264.72 (manifest discrepancies); and

(2) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in R.61-79.264 subpart FF.

**Revise 61-79.260.31(c)(3) through (c)(6) to read:**

(3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

(4) Whether there is a market for partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading); and

(5) Whether the partially-reclaimed material is handled to minimize loss.

~~(6) Other relevant factors.~~

**Revise 61-79.260.42(a) to read:**

(a) Facilities managing hazardous secondary materials under ~~Sections~~ 260.30, 261.4(a)(23), 261.4(a)(24), 261.4(a)(25), or 261.4(a)(27) must send a notification prior to operating under the regulatory provision and by March 1 of each even-numbered year thereafter to the ~~Regional Administrator~~Department using EPA Form 8700-12 that includes the following information:

- (1) The name, address, and EPA ID number (if applicable) of the facility;
- (2) The name and telephone number of a contact person;
- (3) The NAICS code of the facility;
- (4) The regulation under which the hazardous secondary materials will be managed;

(5) ~~When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;~~For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with section 261.4(a)(24) or (25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);

(6) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

~~(7)~~ A list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);

~~(8)~~ For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;

~~(9)~~ The quantity of each hazardous secondary material to be managed annually; and

~~(10)~~ The certification (included in EPA Form 8700-12) signed and dated by an authorized representative of the facility.

**Revise 61-79.260.43(a) to read:**

(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this paragraph and must consider the requirements of paragraph (b) of this section.

**Revise 61-79.260.43(b) to read:**

(b) ~~{Reserved}~~The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

(1) The product of the recycling process does not:

(i) contain significant concentrations of any hazardous constituents found in R.61-79.261 appendix VIII that are not found in analogous products; or

(ii) contain concentrations of hazardous constituents found in R.61-79.264 appendix VIII at levels that are significantly elevated from those found in analogous products, or

(iii) exhibit a hazardous characteristic (as defined in R.61-79.261 subpart C) that analogous products do not exhibit.

(2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this paragraph is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in this paragraph does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

**Revise 61-79.261.2(a)(2)(ii) to remove and reserve:**

(ii) ~~Recycled, as explained in paragraph (c) of this section; or~~ [Reserved]

**Revise 61-79.261.39(a)(5)(iv) to read:**

(iv) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(5)(i) of this section. ~~Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a)(5)(i) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.~~

**Remove Appendix from 61-79.262. Table of Contents:**

~~Appendix~~

**Revise 61-79.262.20(a)(1) and (2) to read:**

(a)(1) A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility ~~who~~that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, ~~according to the instructions included in the Appendix to this part.~~

(2) The revised manifest form and procedures in sections 260.10, 261.7, 262.20, 262.21, 262.27, 262.32, 262.34, 262.54, and 262.60, and the Appendix to 262, shall not apply until September 5, 2006. The manifest form and procedures in sections 260.10, 261.7, 262.20, 262.21, 262.32, 262.34, 262.54, and 262.60, and the Appendix to 262, contained in the parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

**Revise 61-79.262.21(f)(5) to read:**

(5) The manifest and continuation sheet must be printed as ~~six~~five (5) copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all ~~six~~five (5) copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

**Revise 61-79.262.21(f)(6)(i) through (vi) to read:**

(i) Page 1: (top copy): "Designated facility to ~~destination state (if required)~~ EPA's e-Manifest system";

(ii) Page 2: "Designated facility to generator ~~state (if required)~~";

(iii) Page 3: "Designated facility to ~~generator~~ copy";

(iv) Page 4: "~~Designated facility's~~ Transporter copy";

(v) Page 5 (bottom copy): "~~Transporter's~~ Generator's initial copy".

~~(vi) Page 6: (bottom copy) "Generator's initial copy."~~

**Revise 61-79.262.21(f)(7) to read:**

(7) The instructions for the manifest form (EPA Form 8700-22) and the manifest continuation sheet (EPA Form 8700-22A) shall be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and published to the e-Manifest program's website. The instructions in the appendix to part 262 must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest EPA Form 8700-22:

(A) The "Instructions for Generators" on Copy 65;

(B) The "Instructions for International Shipment Block" and "Instructions for Transporters" on Copy 54; and

(C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 43.

(ii) Manifest Form 8700-22A:

(A) The "Instructions for Generators" on Copy 65;

(B) The "Instructions for Transporters" on Copy 54; and

(C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 43.

**Add 61-79.262.21(f)(8) to read:**

(8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: "If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side."

**Revise 61-79.262.24(c) to read:**

(c) Restriction on use of electronic manifests. A generator may ~~prepare~~ use an electronic manifest for the tracking of ~~hazardous~~ waste shipments involving any RCRA hazardous waste only if it is known at the time

the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest system, except that:

(1) A generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(2) [Reserved]

**Revise 61-79.262.24(e) to read:**

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions ~~in the appendix to this part~~, and use these paper forms from this point forward in accordance with the requirements of ~~§~~section 262.23.

**Remove 61-79.262.24(g) and reserve:**

~~(g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time to time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to this part.~~[Reserved]

**Add 61-79.262.24(h) to read:**

(h) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in section 264.71(l), which applies to corrections made to either paper or electronic manifest records.

**Remove 61-79 Appendix to Part 262:**

**Appendix**

**~~TO PART 262—UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (EPA FORMS 8700-22 AND 8700-22A AND THEIR INSTRUCTIONS) U.S. EPA Form 8700-22~~**

~~Read all instructions before completing this form.~~

~~1. This form has been designed for use on a 12 pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used—press down hard.~~

~~2. Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (FORM 8700-22) and, if necessary, the continuation sheet (FORM 8700-22A) for both inter and intrastate transportation of hazardous waste.~~

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved, GMB No. 2050-0039

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator ID Number	2. Page 1 of	3. Emergency Response Phone	4. Manifest Tracking Number
5. Generator's Name and Mailing Address		Generator's Site Address (if different than mailing address)			
Generator's Phone:					
6. Transporter 1 Company Name		U.S. EPA ID Number			
7. Transporter 2 Company Name		U.S. EPA ID Number			
8. Designated Facility Name and Site Address		U.S. EPA ID Number			
Facility's Phone:					
GENERATOR	9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No. Type		11. Total Quantity
	1.				12. Unit Wt./Vol.
	2.				13. Waste Codes
	3.				
	4.				
14. Special Handling Instructions and Additional Information					
15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/ placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27 (a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.					
Generator's/Officer's Printed/Typed Name _____ Signature _____ Month _____ Day _____ Year _____					
INTL	16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____				
	Transporter signature (for exports only): _____ Date leaving U.S.: _____				
TRANSPORTER	17. Transporter Acknowledgment of Receipt of Materials				
	Transporter 1 Printed/Typed Name _____ Signature _____ Month _____ Day _____ Year _____				
DESIGNATED FACILITY	Transporter 2 Printed/Typed Name _____ Signature _____ Month _____ Day _____ Year _____				
	18. Discrepancy				
	18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection				
	Manifest Reference Number: _____				
	16b. Alternate Facility (or Generator) _____ U.S. EPA ID Number _____				
Facility's Phone: _____					
18c. Signature of Alternate Facility (or Generator) _____ Month _____ Day _____ Year _____					
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)					
1. _____		2. _____		3. _____	
4. _____					
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a					
Printed/Typed Name _____ Signature _____ Month _____ Day _____ Year _____					

EPA Form 8700-22 (Rev. 3-05) Previous editions are obsolete. DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

## I. Instructions for Generators

### Manifest 8700-22

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 30 minutes for generators, 10 minutes for transporters, and 25 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing and transmitting the form. Send comments regarding the burden estimate, including suggestions for reducing this burden to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

## I. Instructions for Generators

### Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number, or the state generator identification number if the generator site does not have an EPA identification number.

### Item 2. Page 1 of \_\_\_\_



Enter the total number of pages used to complete this Manifest (i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

**Item 3. Emergency Response Phone Number**

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number must:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
2. Reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and
3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

**Note:** Emergency Response phone number information should only be entered in Item 3 when there is one phone number that applies to all the waste materials described in Item 9b. If a situation (e.g., consolidated shipments) arises where more than one Emergency Response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in Item 9b.

**Item 4. Manifest Tracking Number**

This unique tracking number must be pre-printed on the manifest by the forms printer.

**Item 5. Generator's Mailing Address, Phone Number and Site Address**

Enter the name of the generator, the mailing address to which the completed manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the normal business number for the generator, or the number where the generator or his authorized agent may be reached to provide instructions in the event the designated and/or alternate (if any) facility rejects some or all of the shipment. Also enter the physical site address from which the shipment originates only if this address is different than the mailing address.

**Item 6. Transporter 1 Company Name, and U.S. EPA ID Number**

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste. Vehicle or driver information may not be entered here.

**Item 7. Transporter 2 Company Name and U.S. EPA ID Number**

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste. Vehicle or driver information may not be entered here.

If more than two transporters are needed, use a Continuation Sheet(s) (EPA Form 8700-22A).

**Item 8. Designated Facility Name, Site Address, and U.S. EPA ID Number**

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. Also enter the facility's phone number and the U.S. EPA twelve digit identification number of the facility.

**Item 9. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)**

**Item 9a.** If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an "X" in this Item next to the corresponding hazardous material identified in Item 9b.

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

**Item 9b.** Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable.

**Note:** If additional space is needed for waste descriptions, enter these additional descriptions in Item 27 on the Continuation Sheet (EPA Form 8700-22A). Also, if more than one Emergency Response phone number

applies to the various wastes described in either Item 9b or Item 27, enter applicable Emergency Response phone numbers immediately following the shipping descriptions for those Items.

**Item 10. Containers (Number and Type)**

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

<b>Table I – Types of Containers</b>
BA = Burlap, cloth, paper, or plastic bags.
CF = Fiber or plastic boxes, cartons, cases.
CM = Metal boxes, cartons, cases (including roll-offs).
CW = Wooden boxes, cartons, cases.
CY = Cylinders.
DF = Fiberboard or plastic drums, barrels, kegs.
DM = Metal drums, barrels, kegs.
DT = Dump truck.
DW = Wooden drums, barrels, kegs.
HG = Hopper or gondola cars.
TC = Tank cars.
TP = Portable tanks.
TT = Cargo tanks (tank trucks).

**Item 11. Total Quantity**

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit, and do not enter decimals or fractions. To the extent practical, report quantities using appropriate units of measure that will allow you to report quantities with precision. Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped. Container capacities are not acceptable as estimates.

**Item 12. Units of Measure (Weight/Volume)**

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

<b>Table II – Units of Measure</b>
G = Gallons (liquids only).
K = Kilograms.
L = Liters (liquids only).
M = Metric Tons (1000 kilograms).
N = Cubic Meters.
P = Pounds.
T = Tons (2000 pounds).
Y = Cubic Yards.

**Note:** Tons, Metric Tons, Cubic Meters, and Cubic Yards should only be reported in connection with very large bulk shipments, such as rail cars, tank trucks, or barges.

**Item 13. Waste Codes**

Enter up to six federal and state waste codes to describe each waste stream identified in Item 9b. State waste codes that are not redundant with federal codes must be entered here, in addition to the federal waste codes which are most representative of the properties of the waste.

**Item 14. Special Handling Instructions and Additional Information.**

1. ~~Generators may enter any special handling or shipment specific information necessary for the proper management or tracking of the materials under the generator's or other handler's business processes, such as waste profile numbers, container codes, bar codes, or response guide numbers. Generators also may use this space to enter additional descriptive information about their shipped materials, such as chemical names, constituent percentages, physical state, or specific gravity of wastes identified with volume units in Item 12.~~

2. ~~This space may be used to record limited types of federally required information for which there is no specific space provided on the manifest, including any alternate facility designations; the manifest tracking number of the original manifest for rejected wastes and residues that are re-shipped under a second manifest; and the specification of PCB waste descriptions and PCB out of service dates required under 40 CFR 761.207. Generators, however, cannot be required to enter information in this space to meet state regulatory requirements.~~

#### **Item 15. Generator's/Offeree's Certifications**

1. ~~The generator must read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements. The Generator's Certification also contains the required attestation that the shipment has been properly prepared and is in proper condition for transportation (the shipper's certification). The content of the shipper's certification statement is as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked, and labeled/placarded, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent." When a party other than the generator prepares the shipment for transportation, this party may also sign the shipper's certification statement as the offeror of the shipment.~~

2. ~~Generator or Offeror personnel may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator/offeror certification, to indicate that the individual signs as the employee or agent of the named principal.~~

**Note:** ~~All of the above information except the handwritten signature required in Item 15 may be pre-printed.~~

## **II. Instructions for International Shipment Block**

### **Item 16. International Shipments**

~~For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States.~~

## **III. Instructions for Transporters**

### **Item 17. Transporters' Acknowledgments of Receipt**

~~Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt. Only one signature per transportation company is required. Signatures are not required to track the movement of wastes in and out of transfer facilities, unless there is a change of custody between transporters.~~

~~If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.~~

**Note:** ~~Transporters carrying imports, who are acting as importers, may have responsibilities to enter information in the International Shipments Block. Transporters carrying exports may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.~~

#### **IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities**

##### **Item 18. Discrepancy**

###### **Item 18a. Discrepancy Indication Space**

1. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by 264.72(b) and 265.72(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives, rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDf cannot accept, or container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

2. For rejected loads and residues (40 CFR 264.72(d), (e), and (f), or 40 CFR 265.72(d), (e), or (f)), check the appropriate box if the shipment is a rejected load (i.e., rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the manifest tracking number for any additional manifests being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in Item 14, the Special Handling Block and Additional Information Block of the additional manifests.

3. Owners or operators of facilities located in unauthorized states (i.e., states in which the U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste must submit to their Regional Administrator a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72(e) and 265.72(e)).

4. Owners or operators of facilities located in authorized states (i.e., those states that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their state agency for information on where to report discrepancies involving "significant differences" to state officials.

###### **Item 18b. Alternate Facility (or Generator) for Receipt of Full Load Rejections**

Enter the name, address, phone number, and EPA Identification Number of the Alternate Facility which the rejecting TSDf has designated, after consulting with the generator, to receive a fully rejected waste shipment. In the event that a fully rejected shipment is being returned to the generator, the rejecting TSDf may enter the generator's site information in this space. This field is not to be used to forward partially rejected loads or residue waste shipments.

###### **Item 18c. Alternate Facility (or Generator) Signature**

The authorized representative of the alternate facility (or the generator in the event of a returned shipment) must sign and date this field of the form to acknowledge receipt of the fully rejected wastes or residues identified by the initial TSDf.

##### **Item 19. Hazardous Waste Report Management Method Codes**

Enter the most appropriate Hazardous Waste Report Management Method code for each waste listed in Item 9. The Hazardous Waste Report Management Method code is to be entered by the first treatment, storage, or disposal facility (TSDf) that receives the waste and is the code that best describes the way in which the waste is to be managed when received by the TSDf.

##### **Item 20. Designated Facility Owner or Operator Certification of Receipt (Except As Noted in Item 18a)**

Enter the name of the person receiving the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 18a, the certification should be signed for both waste receipt and waste rejection, with the rejection being noted and described in the space provided in Item 18a. Fully rejected wastes may be forwarded or returned using Item 18b after consultation with the generator. Enter the name of the person accepting the waste on behalf of the owner or operator of the alternate facility or the original generator. That person must acknowledge receipt or rejection of the waste

described on the Manifest by signing and entering the date they received or rejected the waste in Item 18c. Partially rejected wastes and residues must be re-shipped under a new manifest, to be initiated and signed by the rejecting TSDF as offeror of the shipment.

### Manifest Continuation Sheet

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved OMB No. 2050-0039

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b> (Continuation Sheet)		21. Generator ID Number	22. Page	23. Manifest Tracking Number	
24. Generator's Name					
25. Transporter Company Name				U.S. EPA ID Number	
26. Transporter Company Name				U.S. EPA ID Number	
GENERATOR	27a. HM	27b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	28. Containers No.	Type	29. Total Quantity
30. Unit Wt./Vol.					
31. Waste Codes					
32. Special Handling Instructions and Additional Information					
TRANSPORTER	33. Transporter Acknowledgment of Receipt of Materials				
	Printed/Typed Name	Signature	Month	Day	Year
DESIGNATED FACILITY	34. Transporter Acknowledgment of Receipt of Materials				
	Printed/Typed Name	Signature	Month	Day	Year
35. Discrepancy					
36. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)					
DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)					

EPA Form 8700-22A (Rev. 3-05) Previous editions are obsolete.

#### Instructions—Continuation Sheet, U.S. EPA Form 8700-22A

Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

- More than two transporters are to be used to transport the waste; or
- More space is required for the U.S. DOT descriptions and related information in Item 9 of U.S. EPA Form 8700-22.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both interstate and intrastate transportation.

#### Item 21. Generator's ID Number

Enter the generator's U.S. EPA twelve digit identification number or, the state generator identification number if the generator site does not have an EPA identification number.

**Item 22. Page** \_\_\_\_

Enter the page number of this Continuation Sheet.

**Item 23. Manifest Tracking Number**

Enter the Manifest Tracking number from Item 4 of the Manifest form to which this continuation sheet is attached.

**Item 24. Generator's Name** \_\_\_\_

Enter the generator's name as it appears in Item 5 on the first page of the Manifest.

**Item 25. Transporter—Company Name**

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Also enter the U.S. EPA twelve digit identification number of the transporter described in Item 25.

**Item 26. Transporter—Company Name**

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet can record the names of two additional transporters. Also enter the U.S. EPA twelve digit identification number of the transporter named in Item 26.

**Item 27. U.S. D.O.T. Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)**

For each row enter a sequential number under Item 27b that corresponds to the order of waste codes from one continuation sheet to the next, to reflect the total number of wastes being shipped. Refer to instructions for Item 9 of the manifest for the information to be entered.

**Item 28. Containers (No. And Type)**

Refer to the instructions for Item 10 of the manifest for information to be entered.

**Item 29. Total Quantity**

Refer to the instructions for Item 11 of the manifest form.

**Item 30. Units of Measure (Weight/Volume)**

Refer to the instructions for Item 12 of the manifest form.

**Item 31. Waste Codes**

Refer to the instructions for Item 13 of the manifest form.

**Item 32. Special Handling Instructions and Additional Information**

Refer to the instructions for Item 14 of the manifest form.

**Transporters**

**Item 33. Transporter—Acknowledgment of Receipt of Materials**

Enter the same number of the Transporter as identified in Item 25. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 25. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

**Item 34. Transporter—Acknowledgment of Receipt of Materials**

Enter the same number of the Transporter as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt. Owner and Operators of Treatment, Storage, or Disposal Facilities

**Item 35. Discrepancy Indication Space**

Refer to Item 18. This space may be used to more fully describe information on discrepancies identified in Item 18a of the manifest form.

**Item 36. Hazardous Waste Report Management Method Codes**

For each field here, enter the sequential number that corresponds to the waste materials described under Item 27, and enter the appropriate process code that describes how the materials will be processed when

received. If additional continuation sheets are attached, continue numbering the waste materials and process code fields sequentially, and enter on each sheet the process codes corresponding to the waste materials identified on that sheet.

**Remove 61-79.263.20(a)(8) and reserve:**

~~(8) Imposition of user fee for electronic manifest use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time to time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this Chapter. [Reserved]~~

**Add 61-79.263.20(a)(9) to read:**

(9) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in section 264.71(l), which applies to corrections made to either paper or electronic manifest records.

**Revise 61-79.263.21(a) to read:**

~~(a) The~~Except as provided in paragraph (b) of this section, the transporter must deliver the entire quantity of hazardous waste which he or she has accepted from a generator or a transporter to:

**Revise 61-79.263.21(b) to read:**

(b)(1) Emergency condition. If the hazardous waste cannot be delivered in accordance with paragraph (a)(1), (2), or (4) of this section because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further directionsinstructions and must revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:Transporters without agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with paragraph (a)(3) of this section, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with 263.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 264.72(e)(1) through (6) or (f)(1) through (6) or 265.72(e)(1) through (6) or (f)(1) through (6).The hazardous waste is not delivered in accordance with paragraph (a)(3) of this section because of an emergency condition; or

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with 263.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 264.72(e)(1) through (6) or 265.72(e)(1) through (6). The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(iii) The generator authorizes the revision.

(3) Transporters with agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with paragraph (a)(3) of this section, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter(s) designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(i) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(ii) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

(iii) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(4) Generator liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under paragraph (b)(3) of this section does not affect the generator's liability or responsibility for complying with any applicable requirement under this chapter, or grant any additional authority to the transporter to act on behalf of the generator.

**Add 61-79.263.21(c) to read:**

(c) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(1) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with section 263.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in sections 264.72(e)(1) through (6) or (f)(1) through (6) or 265.72(e)(1) through (6) or (f)(1) through (6).



(2) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with section 263.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with sections 264.72(e)(1) through (6) or 265.72(e)(1) through (6).

**Revise 61-79.264.71(a)(2) to read:**

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his or her agent must:

- (i) Sign and date, ~~by hand~~, each copy of the manifest;
- (ii) Note any discrepancies (as defined in section 264.72(a)) on each copy of the manifest;
- (iii) Immediately give the transporter at least one (1) copy of the manifest;
- (iv) Within thirty (30) days of delivery, send a copy (Page 32) of the manifest to the generator;

~~(v) Within thirty (30) days of delivery, send the top copy (Page 1) of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system. Paper manifest submission requirements are:~~

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

**Revise 61-79.264.71(j) to read:**

(j) Imposition of user fee for electronic manifest use.

(1) ~~As~~ As prescribed in section 264.1311, and determined in section 264.1312, an owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under Section 264.71(a)(2)(v). EPA shall maintain and update from time to time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this chapter. EPA shall update the schedule of user fees and publish them to the user community, as provided in section 264.1313.

(2) An owner or operator subject to user fees under this section shall make user fee payments in accordance with the requirements of section 264.1314, subject to the informal fee dispute resolution process of section 264.1316, and subject to the sanctions for delinquent payments under section 264.1315.

**Add 61-79.264.71(l) to read:**

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(1) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission must include the following information:

(i) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(ii) The item number(s) of the original manifest that is the subject of the submitted correction(s);  
and

(iii) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(i) The certification statement must be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in paragraph (l)(3) of this section, and with notice of the corrections to other interested persons shown on the manifest.

**Revise 61-79.264.1086(c)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first ~~accepted~~accepts possession of the container at the facility and the container is not emptied within ~~twenty-four~~ (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to part 262~~ (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

**Revise 61-79.264.1086(d)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to part 262~~ (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

**Add Subpart FF to 61-79.264. Table of Contents to read:**

Subpart FF. Fees for the Electronic Hazardous Waste Manifest Program

264.1300. Applicability.

264.1310. Definitions applicable to this subpart.

264.1311. Manifest transactions subject to fees.

264.1312. User fee calculation methodology.

264.1313. User fee revisions.

264.1314. How to make user fee payments.

264.1315. Sanctions for delinquent payments.

264.1316. Informal fee dispute resolution.

**Add 61-79.264 Subpart FF to read:**

**SUBPART FF: Fees for the Electronic Hazardous Waste Manifest Program**

## **264.1300. Applicability.**

(a) This subpart prescribes:

(1) The methodology by which EPA will determine the user fees which owners or operators of facilities must pay for activities and manifest related services provided by EPA through the development and operation of the electronic hazardous waste manifest system (e-Manifest system); and

(2) The process by which EPA will revise e-Manifest system fees and provide notice of the fee schedule revisions to owners or operators of facilities.

(b) The fees determined under this subpart apply to owners or operators of facilities whose activities receiving, rejecting, or managing federally- or state-regulated hazardous wastes or other materials bring them within the definition of “user of the electronic manifest system” under section 260.10.

## **264.1310. Definitions applicable to this subpart.**

The following definitions apply to this subpart:

“Consumer price index” means the consumer price index for all U.S. cities using the “U.S. city average” area, “all items” and “not seasonally adjusted” numbers calculated by the Bureau of Labor Statistics in the Department of Labor.

“Cross Media Electronic Reporting Rule (CROMERR) costs” are the sub-category of operations and maintenance costs that are expended by EPA in implementing electronic signature, user registration, identity proofing, and copy of record solutions that meet EPA’s electronic reporting regulations as set forth in the CROMERR as codified at 40 CFR part 3.

“Electronic manifest submissions” means manifests that are initiated electronically using the electronic format supported by the e-Manifest system, and that are signed electronically and submitted electronically to the e-Manifest system by facility owners or operators to indicate the receipt or rejection of the wastes identified on the electronic manifest. Electronic manifest submissions include the hybrid or mixed paper/electronic manifests authorized under section 262.24(c)(1).

“EPA program costs” mean the Agency’s intramural and non-information technology extramural costs expended in the design, development and operations of the e-Manifest system, as well as in regulatory development activities supporting e-Manifest, in conducting its capital planning, project management, oversight and outreach activities related to e-Manifest, in conducting economic analyses supporting e-Manifest, and in establishing the System Advisory Board to advise EPA on the system. Depending on the date on which EPA program costs are incurred, these costs may be further classified as either system setup costs or operations and maintenance costs.

“Help desk costs” mean the costs incurred by EPA or its contractors to operate the e-Manifest Help Desk, which EPA will establish to provide e-Manifest system users with technical assistance and related support activities.

“Indirect costs” mean costs not captured as marginal costs, system setup costs, or operations and maintenance costs, but that are necessary to capture because of their enabling and supporting nature, and to ensure full cost recovery. Indirect costs include, but are not limited to, such cost items as physical overhead, maintenance, utilities, and rents on land, buildings, or equipment. Indirect costs also include the EPA costs

incurred from the participation of EPA offices and upper management personnel outside of the lead program office responsible for implementing the e-Manifest program.

“Manifest submission type” means the type of manifest submitted to the e-Manifest system for processing, and includes electronic manifest submissions and paper manifest submissions.

“Marginal labor costs” mean the human labor costs incurred by staff operating the paper manifest processing center in conducting data key entry, quality assurance (QA), scanning, copying, and other manual or clerical functions necessary to process the data from paper manifest submissions into the e-Manifest system’s data repository.

“Operations and maintenance costs” mean all system related costs incurred by EPA or its contractors after the activation of the e-Manifest system. Operations and maintenance costs include the costs of operating the electronic manifest information technology system and data repository, CROMERR costs, help desk costs, EPA program costs incurred after e-Manifest system activation, and the costs of operating the paper manifest processing center, other than the paper processing center’s marginal labor costs.

“Paper manifest submissions” mean submissions to the paper processing center of the e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700-22, or a paper Continuation Sheet, EPA Form 8700-22A. Such submissions may be made by mailing the paper manifests or continuation sheets, by submitting image files from paper manifests or continuation sheets in accordance with section 264.1311(b), or by submitting both an image file and data file in accordance with the procedures of section 264.1311(c).

“System setup costs” mean all system related costs, intramural or extramural, incurred by EPA prior to the activation of the e-Manifest system. Components of system setup costs include the procurement costs from procuring the development and testing of the e-Manifest system, and the EPA program costs incurred prior to e-Manifest system activation.

#### **264.1311. Manifest transactions subject to fees.**

(a) Per manifest fee. Fees shall be assessed on a per manifest basis for the following manifest submission transactions:

(1) The submission of each electronic manifest that is electronically signed and submitted to the e-Manifest system by the owners or operators of receiving facilities, with the fee assessed at the applicable rate for electronic manifest submissions;

(2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the manifest is submitted to the system by mail, by the upload of an image file, or by the upload of a data file representation of the paper manifest; and

(3) The submission of copies of return shipment manifests by facilities that are rejecting hazardous wastes and returning hazardous wastes under return manifests to the original generator. This fee is assessed for the processing of the return shipment manifest(s), and is assessed at the applicable rate determined by the method of submission. The submission shall also include a copy of the original signed manifest showing the rejection of the wastes.

(b) Image file uploads from paper manifests. Receiving facilities may submit image file uploads of completed, ink-signed manifests in lieu of submitting mailed paper forms to the e-Manifest system. Such

image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

(1) The image file upload must be made in an image file format approved by EPA and supported by the e-Manifest system; and

(2) At the time of submission of an image file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the submitted image files are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

(c) Data file uploads from paper manifests. Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting mailed paper forms or image files to the e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

(1) The data file upload must be made in a data file format approved by EPA and supported by the e-Manifest system;

(2) The receiving facility must also submit an image file of each manifest that is included in the individual or batch data file upload; and

(3) At the time of submission of the data file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the data and images submitted are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

#### **264.1312. User fee calculation methodology.**

(a) The fee calculation formula or methodology that EPA will use initially to determine per manifest fees is as follows:

$$\text{Fee}_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

$$\text{O\&M Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

Where  $\text{Fee}_i$  represents the per manifest fee for each manifest submission type "i" and  $N_i$  refers to the total number of manifests completed in a year.

(b)(1) If after four (4) years of system operations, electronic manifest usage does not equal or exceed seventy-five (75) percent of total manifest usage, EPA may transition to the following formula or methodology to determine per manifest fees:

$$\text{Fee}_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M}_i \text{ Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

System Setup Cost = Procurement Cost + EPA Program Cost

O&M<sub>fully electronic</sub> Cost = Electronic System O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

O&M<sub>all other</sub> Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

Where  $N_i$  refers to the total number of one (1) of the four (4) manifest submission types “ $i$ ” completed in a year and  $O\&M_i$  Cost refers to the differential O&M Cost for each manifest submission type “ $i$ .”

(2) At the completion of four (4) years of system operations, EPA shall publish a notice:

(i) Stating the date upon which the fee formula set forth in paragraph (b)(1) of this section shall become effective; or

(ii) Stating that the fee formula in paragraph (b)(1) of this section shall not go into effect under this section, and that the circumstances of electronic manifest adoption and the appropriate fee response shall be referred to the System Advisory Board for the Board’s advice.

### **264.1313. User fee revisions.**

(a) Revision schedule.

(1) EPA will revise the fee schedules for e-Manifest submissions and related activities at two-year intervals, by utilizing the applicable fee calculation formula prescribed in section 264.1312 and the most recent program cost and manifest usage numbers.

(2) The fee schedules will be published to users through the e-Manifest program website by July 1 of each odd numbered calendar year, and will cover the two (2) fiscal years beginning on October 1 of that year and ending on September 30 of the next odd numbered calendar year.

(b) Inflation adjuster. The second year of each two-year fee schedule shall be adjusted for inflation by using the following adjustment formula:

$$\text{Fee}_{i\text{Year}2} = \text{Fee}_{i\text{Year}1} \times (\text{CPI}_{\text{Year}2-2} / \text{CPI}_{\text{Year}2-1})$$

Where:

$\text{Fee}_{i\text{Year}2}$  is the Fee for each type of manifest submission “ $i$ ” in Year 2 of the fee cycle;

$\text{Fee}_{i\text{Year}1}$  is the Fee for each type of manifest submission “ $i$ ” in Year 1 of the fee cycle; and

$\text{CPI}_{\text{Year}2-2} / \text{CPI}_{\text{Year}2-1}$  is the ratio of the CPI published for the year two (2) years prior to Year 2 to the CPI for the year one (1) year prior to Year 2 of the cycle.

(c) Revenue recovery adjusters. The fee schedules published at two-year intervals under this section shall include an adjustment to recapture revenue lost in the previous two-year fee cycle on account of imprecise estimates of manifest usage. This adjustment shall be calculated using the following adjustment formula to

calculate a revenue recapture amount which will be added to O&M Costs in the fee calculation formula of section 264.1312:

$$\text{Revenue Recapture}_i = (N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Actual}} - (N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Est}} \times \text{Fee}_{i(\text{Ave})}$$

Where:

Revenue Recapture<sub>i</sub> is the amount of fee revenue recaptured for each type of manifest submission “i;”

(N<sub>iYear1</sub> + N<sub>iYear2</sub>)<sub>Actual</sub> – (N<sub>iYear1</sub> + N<sub>iYear2</sub>)<sub>Est</sub> is the difference between actual manifest numbers submitted to the system for each manifest type during the previous two-year cycle, and the numbers estimated when we developed the previous cycle’s fee schedule; and

Fee<sub>i(Ave)</sub> is the average fee charged per manifest type over the previous two-year cycle.

#### **264.1314. How to make user fee payments.**

(a) All fees required by this subpart shall be paid by the owners or operators of the receiving facility in response to an electronic invoice or bill identifying manifest-related services provided to the user during the previous month and identifying the fees owed for the enumerated services.

(b) All fees required by this subpart shall be paid to EPA by the facility electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury’s pay.gov online electronic payment service, or any applicable additional online electronic payment service offered by the Department of Treasury.

(c) All fees for which payments are owed in response to an electronic invoice or bill must be paid within thirty (30) days of the date of the invoice or bill.

#### **264.1315. Sanctions for delinquent payments.**

(a) Interest. In accordance with 31 U.S.C. 3717(a)(1), delinquent e-Manifest user fee accounts shall be charged a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts (Current Value of Funds Rate or CVFR) for the twelve-month period ending September 30 of each year, rounded to the nearest whole percent.

(1) E-Manifest user fee accounts are delinquent if the accounts remain unpaid after the due date specified in the invoice or other notice of the fee amount owed.

(2) Due dates for invoiced or electronically billed fee amounts shall be thirty (30) days from the date of the electronic invoice or bill.

(b) Financial penalty. In accordance with 31 U.S.C. 3717(e), e-Manifest user fee accounts that are more than ninety (90) days past due (i.e., not paid by date one hundred twenty (120) days from date of invoice) shall be charged an additional penalty of six (6) percent per year assessed on any part of the debt that is past due for more than ninety (90) days, plus any applicable handling charges.

(c) Compliance with manifest perfection requirement. A manifest is fully perfected when:

(1) The manifest has been submitted by the owner or operator of a receiving facility to the e-Manifest system, as either an electronic submission or a paper manifest submission; and



(2) All user fees arising from the submission of the manifest have been fully paid.

**264.1316. Informal fee dispute resolution.**

(a) Users of e-Manifest services that believe their invoice or charges to be in error must present their claims for fee dispute resolution informally using the process described in this section.

(b) Users asserting a billing dispute claim must first contact the system's billing representatives by phone or email at the phone number or email address provided for this purpose on the e-Manifest program's website or other customer services directory.

(1) The fee dispute claimant must provide the system's billing representatives with information identifying the claimant and the invoice(s) that are affected by the dispute, including:

(i) The claimant's name, and the facility at which the claimant is employed;

(ii) The EPA Identification Number of the affected facility;

(iii) The date, invoice number, or other information to identify the particular invoice(s) that is the subject of the dispute; and

(iv) A phone number or email address where the claimant can be contacted.

(2) The fee dispute claimant must provide the system's billing representatives with sufficient supporting information to identify the nature and amount of the fee dispute, including:

(i) If the alleged error results from the types of manifests submitted being inaccurately described in the invoice, the correct description of the manifest types that should have been billed;

(ii) If the alleged error results from the number of manifests submitted being inaccurately described in the invoice, the correct description of the number of manifests that should have been billed;

(iii) If the alleged error results from a mathematical error made in calculating the amount of the invoice, the correct fee calculations showing the corrected fee amounts; and

(iv) Any other information from the claimant that explains why the invoiced amount is in error and what the fee amount invoiced should be if corrected.

(3) EPA's system billing representatives must respond to billing dispute claims made under this section within ten (10) days of receipt of a claim. In response to a claim, the system's billing representative will:

(i) State whether the claim is accepted or rejected, and if accepted, the response will indicate the amount of any fee adjustment that will be refunded or credited to the facility; and

(ii) If a claim is rejected, then the response shall provide a brief statement of the reasons for the rejection of the claim and advise the claimant of their right to appeal the claim to the Office Director for the Office of Resource Conservation and Recovery.

(c) Fee dispute claimants that are not satisfied by the response to their claim from the system's billing representatives may appeal their claim and initial decision to the Office Director for the Office of Resource Conservation and Recovery.

(1) Any appeal from the initial decision of the system's billing representatives must be taken within ten (10) days of the initial decision of the system's billing representatives under paragraph (b) of this section.

(2) The claimant shall provide the Office Director with the claim materials submitted to the system's billing representatives, the response provided by the system's billing representatives to the claim, and a brief written statement by the claimant explaining the nature and amount of the billing error, explaining why the claimant believes the decision by the system's billing representatives is in error, and why the claimant is entitled to the relief requested on its appeal.

(3) The Office Director shall review the record presented to him or her on an appeal under this paragraph (c), and shall determine whether the claimant is entitled to relief from the invoice alleged to be in error, and if so, shall state the amount of the recalculated invoice and the amount of the invoice to be adjusted.

(4) The decision of the Office Director on any appeal brought under this section is final and non-reviewable.

**Revise 61-79.265.71(a)(2) to read:**

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(i) Sign and date, ~~by hand,~~ each copy of the manifest;

(ii) Note any discrepancies (as defined in 265.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within thirty (30) days of delivery, send a copy (Page ~~32~~) of the manifest to the generator-; and?

(v) ~~Within thirty (30) days of delivery, send the top copy (Page 1) of the Manifest to the electronic manifest system for purposes of data entry and processing. Instead of mailing this paper copy to EPA, the owner or operator may transmit to the system operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system. Paper manifest submission requirements are:~~

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's

directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

**Revise 61-79.265.71(j)(1) and (2) to read:**

(j) Imposition of user fee for electronic manifest use.

(1) ~~As~~ As prescribed in section 265.1311, and determined in section 265.1312, an owner or operator who is a user of the electronic manifest ~~format may~~ system shall be assessed a user fee by EPA for the origination or submission and processing of each electronic and paper manifest. ~~An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under Section 264.71(a)(2)(v). EPA shall maintain and update from time to time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this chapter. EPA shall update the schedule of user fees and publish them to the user community, as provided in section 265.1313.~~

(2) An owner or operator subject to user fees under this section shall make user fee payments in accordance with the requirements of section 265.1314, subject to the informal fee dispute resolution process of section 265.1316, and subject to the sanctions for delinquent payments under section 265.1315.

**Add 61-79.265.71(l) to read:**

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(1) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission must include the following information:

(i) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(ii) The Item Number(s) of the original manifest that is the subject of the submitted correction(s);  
and

(iii) For each Item Number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete.

(i) The certification statement must be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one (1) certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in paragraph (1)(3) of this section, and with notice of the corrections to other interested persons shown on the manifest.

**Revise 61-79.265.1087(c)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to part 262~~ (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 265.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

**Revise 265.1087(d)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~in the appendix to part 262~~ (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 265.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

**Add Subpart FF to 61-79.265. Table of Contents to read:**

Subpart FF. Fees for the Electronic Hazardous Waste Manifest Program

265.1300. Applicability.  
265.1310. Definitions applicable to this subpart.  
265.1311. Manifest transactions subject to fees.  
265.1312. User fee calculation methodology.  
265.1313. User fee revisions.  
265.1314. How to make user fee payments.  
265.1315. Sanctions for delinquent payments.  
265.1316. Informal fee dispute resolution.

**Add 265 Subpart FF to read:**

**SUBPART FF: Fees for the Electronic Hazardous Waste Manifest Program**

**265.1300. Applicability.**

(a) This subpart prescribes:

(1) The methodology by which EPA will determine the user fees which owners or operators of facilities must pay for activities and manifest related services provided by EPA through the development and operation of the electronic hazardous waste manifest system (e-Manifest system); and

(2) The process by which EPA will revise e-Manifest system fees and provide notice of the fee schedule revisions to owners or operators of facilities.

(b) The fees determined under this subpart apply to owners or operators of facilities whose activities receiving, rejecting, or managing federally- or state-regulated wastes or other materials bring them within the definition of “user of the electronic manifest system” under section 260.10.

**265.1310. Definitions applicable to this subpart.**

The following definitions apply to this subpart:

“Consumer price index” means the consumer price index for all U.S. cities using the “U.S. city average” area, “all items” and “not seasonally adjusted” numbers calculated by the Bureau of Labor Statistics in the Department of Labor.

“CROMERR costs” are the sub-category of operations and maintenance costs that are expended by EPA in implementing electronic signature, user registration, identity proofing, and copy of record solutions that meet EPA’s electronic reporting regulations as set forth in the Cross Media Electronic Reporting Rule (CROMERR) as codified at 40 CFR part 3.

“Electronic manifest submissions” means manifests that are initiated electronically using the electronic format supported by the e-Manifest system, and that are signed electronically and submitted electronically to the e-Manifest system by facility owners or operators to indicate the receipt or rejection of the wastes identified on the electronic manifest. Electronic manifest submissions include the hybrid or mixed paper/electronic manifests authorized under section 262.24(c)(1).

“EPA program costs” mean the Agency’s intramural and non-information technology extramural costs expended in the design, development and operations of the e-Manifest system, as well as in regulatory development activities supporting e-Manifest, in conducting its capital planning, project management, oversight and outreach activities related to e-Manifest, in conducting economic analyses supporting

e-Manifest, and in establishing the System Advisory Board to advise EPA on the system. Depending on the date on which EPA program costs are incurred, these costs may be further classified as either system setup costs or operations and maintenance costs.

“**Help desk costs**” mean the costs incurred by EPA or its contractors to operate the e-Manifest Help Desk, which EPA will establish to provide e-Manifest system users with technical assistance and related support activities.

“**Indirect costs**” mean costs not captured as marginal costs, system setup costs, or operations and maintenance costs, but that are necessary to capture because of their enabling and supporting nature, and to ensure full cost recovery. Indirect costs include, but are not limited to, such cost items as physical overhead, maintenance, utilities, and rents on land, buildings, or equipment. Indirect costs also include the EPA costs incurred from the participation of EPA offices and upper management personnel outside of the lead program office responsible for implementing the e-Manifest program.

“**Manifest submission type**” means the type of manifest submitted to the e-Manifest system for processing, and includes electronic manifest submissions and paper manifest submissions.

“**Marginal labor costs**” mean the human labor costs incurred by staff operating the paper manifest processing center in conducting data key entry, quality assurance (QA), scanning, copying, and other manual or clerical functions necessary to process the data from paper manifest submissions into the e-Manifest system’s data repository.

“**Operations and maintenance costs**” mean all system related costs incurred by EPA or its contractors after the activation of the e-Manifest system. Operations and maintenance costs include the costs of operating the electronic manifest information technology system and data repository, CROMERR costs, help desk costs, EPA program costs incurred after e-Manifest system activation, and the costs of operating the paper manifest processing center, other than the paper processing center’s marginal labor costs.

“**Paper manifest submissions**” mean submissions to the paper processing center of the e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700-22, or a paper Continuation Sheet, EPA Form 8700-22A. Such submissions may be made by mailing the paper manifests or continuation sheets, by submitting image files from paper manifests or continuation sheets in accordance with section 265.1311(b), or by submitting both an image file and data file in accordance with the procedures of section 265.1311(c).

“**System setup costs**” mean all system related costs, intramural or extramural, incurred by EPA prior to the activation of the e-Manifest system. Components of system setup costs include the procurement costs from procuring the development and testing of the e-Manifest system, and the EPA program costs incurred prior to e-Manifest system activation.

#### **265.1311. Manifest transactions subject to fees.**

(a) Per manifest fee. Fees shall be assessed on a per manifest basis for the following manifest submission transactions:

(1) The submission of each electronic manifest that is electronically signed and submitted to the e-Manifest system by the owners or operators of receiving facilities, with the fee assessed at the applicable rate for electronic manifest submissions;

(2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the manifest is submitted to the system by mail, by the upload of an image file, or by the upload of a data file representation of the paper manifest; and

(3) The submission of copies of return shipment manifests by facilities that are rejecting hazardous wastes and returning hazardous wastes under return manifests to the original generator. This fee is assessed for the processing of the return shipment manifest(s), and is assessed at the applicable rate determined by the method of submission. The submission shall also include a copy of the original signed manifest showing the rejection of the wastes.

(b) Image file uploads from paper manifests. Receiving facilities may submit image file uploads of completed, ink-signed manifests in lieu of submitting mailed paper forms to the e-Manifest system. Such image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

(1) The image file upload must be made in an image file format approved by EPA and supported by the e-Manifest system; and

(2) At the time of submission of an image file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the submitted image files are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

(c) Data file uploads from paper manifests. Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting mailed paper forms or image files to the e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

(1) The data file upload must be made in a data file format approved by EPA and supported by the e-Manifest system;

(2) The receiving facility must also submit an image file of each manifest that is included in the individual or batch data file upload; and

(3) At the time of submission of the data file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the data and images submitted are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

#### **265.1312. User fee calculation methodology.**

(a) The fee calculation formula or methodology that EPA will use initially to determine per manifest fees is as follows:

$$\text{Fee}_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

O&M Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

Where  $Fee_i$  represents the per manifest fee for each manifest submission type “i” and  $N_i$  refers to the total number of manifests completed in a year.

(b)(1) If after four (4) years of system operations, electronic manifest usage does not equal or exceed seventy-five (75) percent of total manifest usage, EPA may transition to the following formula or methodology to determine per manifest fees:

$Fee_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M}_i \text{ Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$

System Setup Cost = Procurement Cost + EPA Program Cost

$\text{O\&M}_{\text{fully electronic}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$

$\text{O\&M}_{\text{all other}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$

Where  $N_i$  refers to the total number of one (1) of the four (4) manifest submission types “i” completed in a year and  $\text{O\&M}_i \text{ Cost}$  refers to the differential O&M Cost for each manifest submission type “i.”

(2) At the completion of four (4) years of system operations, EPA shall publish a notice:

(i) Stating the date upon which the fee formula set forth in paragraph (b)(1) of this section shall become effective; or

(ii) Stating that the fee formula in paragraph (b)(1) of this section shall not go into effect under this section, and that the circumstances of electronic manifest adoption and the appropriate fee response shall be referred to the System Advisory Board for the Board’s advice.

### **265.1313. User fee revisions.**

(a) Revision schedule.

(1) EPA will revise the fee schedules for e-Manifest submissions and related activities at two-year intervals, by utilizing the applicable fee calculation formula prescribed in section 265.1312 and the most recent program cost and manifest usage numbers.

(2) The fee schedules will be published to users through the e-Manifest program website by July 1 of each odd numbered calendar year, and will cover the next two (2) fiscal years beginning on October 1 of that year and ending on September 30 of the next odd numbered year.

(b) Inflation adjuster. The second year of each two-year fee schedule shall be adjusted for inflation by using the following adjustment formula:

$Fee_{i\text{Year } 2} = Fee_{i\text{Year } 1} \times (\text{CPI}_{\text{Year } 2-2} / \text{CPI}_{\text{Year } 2-1})$



Where:

Fee<sub>iYear2</sub> is the Fee for each type of manifest submission “i” in Year 2 of the fee cycle;

Fee<sub>iYear1</sub> is the Fee for each type of manifest submission “i” in Year 1 of the fee cycle; and

CPI<sub>Year2-2</sub>/CPI<sub>Year2-1</sub> is the ratio of the CPI published for the year two (2) years prior to Year 2 to the CPI for the year one (1) year prior to Year 2 of the cycle.

(c) Revenue recovery adjusters. The fee schedules published at two-year intervals under this section shall include an adjustment to recapture revenue lost in the previous two-year fee cycle on account of imprecise estimates of manifest usage. This adjustment shall be calculated using the following adjustment formula to calculate a revenue recapture amount which will be added to O&M Costs in the fee calculation formula of section 265.1312:

$$\text{Revenue Recapture}_i = [(N_{iYear1} + N_{iYear2})_{\text{Actual}} - (N_{iYear1} + N_{iYear2})_{\text{Est}}] \times \text{Fee}_{i(\text{Ave})}$$

Where:

Revenue Recapture<sub>i</sub> is the amount of fee revenue recaptured for each type of manifest submission “i;”

(N<sub>iYear1</sub> + N<sub>iYear2</sub>)<sub>Actual</sub> - (N<sub>iYear1</sub> + N<sub>iYear2</sub>)<sub>Est</sub> is the difference between actual manifest numbers submitted to the system for each manifest type during the previous two-year cycle, and the numbers estimated when we developed the previous cycle’s fee schedule; and

Fee<sub>i(Ave)</sub> is the average fee charged per manifest type over the previous two-year cycle.

#### **265.1314. How to make user fee payments.**

(a) All fees required by this subpart shall be paid by the owners or operators of the receiving facility in response to an electronic invoice or bill identifying manifest-related services provided to the user during the previous month and identifying the fees owed for the enumerated services.

(b) All fees required by this subpart shall be paid to EPA by the facility electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury’s pay.gov online electronic payment service, or any applicable additional online electronic payment service offered by the Department of Treasury.

(c) All fees for which payments are owed in response to an electronic invoice or bill must be paid within thirty (30) days of the date of the invoice or bill.

#### **265.1315. Sanctions for delinquent payments.**

(a) Interest. In accordance with 31 U.S.C. 3717(a)(1), delinquent e-Manifest user fee accounts shall be charged a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts (Current Value of Funds Rate or CVFR) for the twelve-month period ending September 30 of each year, rounded to the nearest whole percent.

(1) E-Manifest user fee accounts are delinquent if the accounts remain unpaid after the due date specified in the invoice or other notice of the fee amount owed.

(2) Due dates for invoiced or electronically billed fee amounts shall be thirty (30) days from the date of the electronic invoice or bill.

(b) Financial penalty. In accordance with 31 U.S.C. 3717(e), e-Manifest user fee accounts that are more than ninety (90) days past due (i.e., not paid by date one hundred twenty (120) days from date of invoice) shall be charged an additional penalty of six (6) percent per year assessed on any part of the debt that is past due for more than ninety (90) days, plus any applicable processing and handling charges.

(c) Compliance with manifest perfection requirement. A manifest is fully perfected when:

(1) The manifest has been submitted by the owner or operator of a receiving facility to the e-Manifest system, as either an electronic submission or a paper manifest submission; and

(2) All user fees arising from the submission of the manifest have been fully paid.

#### **265.1316. Informal fee dispute resolution.**

(a) Users of e-Manifest services that believe their invoice or charges to be in error must present their claims for fee dispute resolution informally using the process described in this section.

(b) Users asserting a billing dispute claim must first contact the system's billing representatives by phone or email at the phone number or email address provided for this purpose on the e-Manifest program's website or other customer services directory.

(1) The fee dispute claimant must provide the system's billing representatives with information identifying the claimant and the invoice(s) that are affected by the dispute, including:

(i) The claimant's name, and the facility at which the claimant is employed;

(ii) The EPA Identification Number of the affected facility;

(iii) The date, invoice number, or other information to identify the particular invoice(s) that is the subject of the dispute; and

(iv) A phone number or email address where the claimant can be contacted.

(2) The fee dispute claimant must provide the system's billing representatives with sufficient supporting information to identify the nature and amount of the fee dispute, including:

(i) If the alleged error results from the types of manifests submitted being inaccurately described in the invoice, the correct description of the manifest types that should have been billed;

(ii) If the alleged error results from the number of manifests submitted being inaccurately described in the invoice, the correct description of the number of manifests that should have been billed;

(iii) If the alleged error results from a mathematical error made in calculating the amount of the invoice, the correct fee calculations showing the corrected fee amounts; and

(iv) Any other information from the claimant that explains why the invoiced amount is in error and what the fee amount invoiced should be if corrected.

(3) EPA's system billing representatives must respond to billing dispute claims made under this section within ten (10) days of receipt of a claim. In response to a claim, the system's billing representative will:

(i) State whether the claim is accepted or rejected, and if accepted, the response will indicate the amount of any fee adjustment that will be refunded or credited to the facility; and

(ii) If a claim is rejected, then the response shall provide a brief statement of the reasons for the rejection of the claim and advise the claimant of their right to appeal the claim to the Office Director for the Office of Resource Conservation and Recovery.

(c) Fee dispute claimants that are not satisfied by the response to their claim from the system's billing representatives may appeal their claim and initial decision to the Office Director for the Office of Resource Conservation and Recovery.

(1) Any appeal from the initial decision of the system's billing representatives must be taken within ten (10) days of the initial decision of the system's billing representatives under paragraph (b) of this section.

(2) The claimant shall provide the Office Director with the claim materials submitted to the system's billing representatives, the response provided by the system's billing representatives to the claim, and a brief written statement by the claimant explaining the nature and amount of the billing error, explaining why the claimant believes the decision by the system's billing representatives is in error, and why the claimant is entitled to the relief requested on its appeal.

(3) The Office Director shall review the record presented to him or her on an appeal under this paragraph (c), and shall determine whether the claimant is entitled to relief from the invoice alleged to be in error, and if so, shall state the amount of the recalculated invoice and the amount of the invoice to be adjusted.

(4) The decision of the Office Director on any appeal brought under this section is final and non-reviewable.

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

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

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to maintain state consistency with the following EPA regulations published in the Federal Register: "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," on May 30, 2018, at 83 FR 24664-24671; "Confidentiality Determinations for Hazardous Waste Export and Import Documents," on December 26, 2017, at 82 FR 60894-60901; and "Hazardous Waste Electronic Manifest System User Fee; Final Rule," on January 3, 2018, at 83 FR 420-462.

Legal Authority: 1976 Code Section 44-56-30.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these amendments. Additionally, printed copies are available for a fee from the

Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department adopts three final EPA rules published in the Federal Register. The "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of RCRA and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The "Confidentiality Determinations for Hazardous Waste Export and Import Documents," published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations from and into the United States by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The "Hazardous Waste Electronic Manifest System User Fee; Final Rule," published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of these rules is required to comply with federal law and brings R.61-79 into conformity with the federal regulations.

#### DETERMINATION OF COSTS AND BENEFITS:

These amendments are exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the changes are necessary to maintain compliance with federal law.

The EPA estimates in the Federal Register, Volume 80, Number 8, January 13, 2015 on page 1769 that the Definition of Solid Waste Rule will result in cost savings for the regulated community due to increased recycling of hazardous wastes. Likewise, in the Federal Register, Volume 83, Number 2, dated January 3, 2018, page 446, the EPA estimates that the Hazardous Waste Electronic Manifest User Fee Rule will result in cost savings for the regulated community. Finally, in the Federal Register, Volume 82, Number 246, dated December 26, 2017, page 60898, the EPA estimates that the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule will result in greater efficiencies and cost savings for the regulated community.

#### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

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

The revisions to R.61-79 provide continued protection of the environment and human health in accordance with updates to federal law.

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

If South Carolina does not adopt these amendments, the EPA's delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the

EPA requires South Carolina's regulations be at least as stringent as the federal regulations. Adoption of these revisions ensures equivalency with federal requirements.

Date: November 7, 2019

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

From: Bureau of Land and Waste Management

**Re: Public Hearing for Notice of Final Regulation Amending R.61-79, *Hazardous Waste Management Regulations*, Document No. 4883**

## **I. Introduction**


The Bureau of Land and Waste Management (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-79, *Hazardous Waste Management Regulations*. Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. Sections 44-56-10 et seq., which authorizes the Department of Health and Environmental Control (“Department”) to promulgate hazardous waste management 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 proposed amendments.

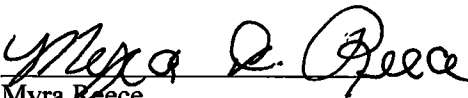
## **II. Facts**

1. The Bureau proposes adopting the “Revisions to the Definition of Solid Waste Rule,” published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This United States Environmental Protection Agency (“EPA”) rule revised several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to encourage recycling of hazardous waste. EPA Checklist 233D2 (2008 Definition of Solid Waste (DSW) exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion) describe the proposed amendments. These checklists may be found at <https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-under-resource-conservation-and-recovery-act>. The Department also proposes amending R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention, such as correcting form references, adding language that was erroneously omitted during adoption of previous rules, and other such changes.
2. The Department had a Notice of Drafting published in the March 22, 2019, *State Register*.
3. Appropriate Department staff conducted an internal review of the proposed amendments on March 28, 2019.
4. The Bureau conducted an outreach meeting on May 3, 2019, with the Solid Waste Ad Hoc group, members from the South Carolina Chamber Environmental Technical Committee (specifically, the Solid Waste subcommittee), and the South Carolina Manufacturers Association. The Bureau also provided notice to interested parties *via* email.
5. The Department had a Notice of Proposed Regulation published in the May 24, 2019, *State Register*. The Department did not receive any comments during the public comment period, which ended on June 24, 2019.

### III. Request for Approval

The Bureau of Land and Waste Management respectfully requests the Board to find need and reasonableness of the attached proposed amendments of R.61-79, *Hazardous Waste Management Regulations*, for submission to the General Assembly.

  
Henry Porter  
Chief, Bureau of Land and Waste Management

  
Myra Reece  
Director of Environmental Affairs

Attachment:  
A. Notice of Final Regulation

**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R.61-79, *Hazardous Waste Management Regulations***

**November 7, 2019**

Document No. 4883

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) amends R.61-79 to adopt the “Revisions to the Definition of Solid Waste Rule,” published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This United States Environmental Protection Agency (“EPA”) rule revised several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to encourage recycling of hazardous waste. EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion) describe the proposed amendments. These checklists may be found at <https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-under-resource-conservation-and-recovery-act>. The Department also amends R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention, such as correcting form references, adding language that was erroneously omitted during adoption of previous rules, and other such changes.

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*.

**Instructions:** Amend R.61-79 pursuant to each individual instruction provided with the text of the amendments below.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Ann. Section 44-56-~~30~~10 et seq.

**Revise 61-79.260. Table of Contents to read:**

**SUBPART C. Rulemaking Petitions**

260.20. General.

260.21. Petitions for equivalent testing or analytical methods.

260.22. Petitions to amend part 261 to exclude a waste produced at a particular facility.

260.23. Petitions to amend 40 CFR part 273 to include additional hazardous wastes.

260.30. Non-waste determinations and ~~Variances~~ from classification as a solid waste.



260.31. Standards and criteria for variances from classification as a solid waste.  
260.32. Variance to be classified as a boiler.  
260.33. Procedures for variances from classification as a solid waste or, for variances to be classified as a boiler, or for non-waste determinations.  
260.34. Standards and criteria for non-waste determinations.  
260.40. Additional regulation of certain hazardous waste recycling activities on a case-by-case basis.  
260.41. Procedures for case-by-case regulation of hazardous waste recycling activities.  
260.42. Notification requirement for hazardous secondary materials.  
260.43. Legitimate recycling of hazardous secondary materials.

**Add 61-79.260.2(c) to read:**

(c)(1) After August 6, 2014, no claim of business confidentiality may be asserted by any person with respect to information entered on a Hazardous Waste Manifest (EPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (EPA Form 8700-22A), or an electronic manifest format that may be prepared and used in accordance with section 262.20(a)(3).

(2) EPA will make any electronic manifest that is prepared and used in accordance with section 262.20(a)(3), or any paper manifest that is submitted to the system under sections 264.71(a)(6) or 265.71(a)(6) available to the public under this section when the electronic or paper manifest is a complete and final document. Electronic manifests and paper manifests submitted to the system are considered by EPA to be complete and final documents and publicly available information after ninety (90) days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

**Revise 61-79.260.10. to read:**

**"EPA ~~i~~Identification ~~n~~Number"** means the number assigned by ~~EPA~~the Department to each generator, transporter, and treatment, storage, or disposal facility.

**"Facility"** means: (1) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them). (2) For the purpose of implementing corrective action under sections 264.101, all contiguous property under the control of the owner or operator seeking a permit under subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h). (3) Notwithstanding paragraph (2) of this definition, a remediation waste management site is not a facility that is subject to section 264.101, but is subject to corrective action requirements if the site is located within such a facility.

**"Hazardous secondary material generator"** means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this paragraph, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of sections 261.2(a)(2)(ii) and 261.4(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

**"Intermediate facility"** means any facility that stores hazardous secondary materials for more than ten (10) days, other than a hazardous secondary material generator or reclaimer of such material.

**"Land-based unit"** means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

“Remanufacturing” means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

“Transfer facility” means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

**Revise 61-79.260.30. to read:**

**260.30. Non-waste determinations and ~~V~~variances from classification as a solid waste.**

In accordance with the standards and criteria in ~~Section~~sections 260.31 and 260.34 and the procedures in ~~S~~section 260.33, the Department may determine on a case by case basis that the following recycled materials are not solid wastes:

(a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in ~~R. 61-79-section~~ 261.1(c)(8);

(b) Materials that are reclaimed and then reused within the original production process in which they were generated; ~~and~~

(c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;

(d) Hazardous secondary materials that are reclaimed in a continuous industrial process; and

(e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.

**Revise 61-79.260.33 to read:**

**260.33. Procedures for variances from classification as a solid waste-~~or~~, for variances to be classified as a boiler, or for non-waste determinations.**

The Department will use the following procedures in evaluating applications for variances from classification as a solid waste-~~or~~, applications to classify particular enclosed controlled flame combustion devices as boilers; or applications for non-waste determinations.

(a) The applicant must apply to the Department for the variance or non-waste determination. The application must address the relevant criteria contained in sections 260.31-~~or~~, 260.32, or 260.34, as applicable.

**Add 61-79.260.34 to read:**

**260.34. Standards and criteria for non-waste determinations.**

(a) An applicant may apply to the Department for a formal determination that a hazardous secondary material is not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in paragraphs (b) or (c) of this section, as applicable. If an application is denied, the hazardous secondary material might still be eligible for a solid waste variance or exclusion (for example, one of the solid waste variances under section 260.31).

(b) The Department may grant a non-waste determination for hazardous secondary material which is reclaimed in a continuous industrial process if the applicant demonstrates that the hazardous secondary material is a part of the production process and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in section 260.43 and on the following criteria:

(1) The extent that the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;

(2) Whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

(3) Whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water, or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

(4) Other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under sections 261.2 or 261.4.

(c) The Department may grant a non-waste determination for hazardous secondary material which is indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in section 260.43 and on the following criteria:

(1) Whether market participants treat the hazardous secondary material as a product or intermediate rather than a waste (for example, based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);

(2) Whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;

(3) Whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

(4) Whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water, or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

(5) Other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under sections 261.2 or 261.4.

**Add Subparts F through CC to 61-79.261. Table of Contents to read:**

SUBPART F. [Reserved]

SUBPART G. [Reserved]

SUBPART H.

261.140. Applicability.

261.141. Definitions of terms as used in this subpart.

261.142. Cost estimate.

261.143. Financial assurance condition.

261.144. [Reserved]

261.145. [Reserved]

261.146. [Reserved]

261.147. Liability requirements.

261.148. Incapacity of owners or operators, guarantors, or financial institutions.

261.151. Wording of the instruments.

261.151. Appendices A-1 through M-2.

**Revise 61-79.261.1(c)(4) to read:**

(4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of sections 261.4(a)(23) and (24), smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in section 266.100(d)(1) through (3), and if the residuals meet the requirements specified in section 266.112.

**Revise 61-79.261.2(c)(3) to read:**

(3) Reclaimed. Materials noted with an "X\*" in column 3 of Table 1 are solid wastes when reclaimed ~~(except as provided under 261.4(a)(17))~~ unless they meet the requirements of section 261.4(a)(17), or section 261.4(a)(23), 261.4(a)(24), or 261.4(a)(27). Materials noted with a "-" in column 3 of Table 1 are not solid wastes when reclaimed.

**Revise 61-79.261.2(c)(4) to read:**

(4) Accumulated speculatively. Materials noted with an "X\*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

261.2 Table 1 Summary of definitions of Solid Waste				
	Use Constituting Disposal (261.2(c)(1))	Energy Recovery/Fuel (261.2(c)(2))	Reclamation (261.2(c)(3)), except as provided in <del>261.2(a)(2)(ii),</del> 261.4(a)(17), 261.4(a)(23),	Speculative Accumulation (261.2(c)(4))

			261.4(a)(24), 261.4(a)(25)	or	
	(1)	(2)	(3)		(4)
Spent Materials	(*)	(*)	(*)		(*)
Sludges (listed in <u>Sections 261.31 or 261.32</u> )	(*)	(*)	(*)		(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	-		(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	(*)		(*)
Commercial chemical products listed in <u>Section 261.33</u>	(*)	(*)	-		-
Scrap metal that is not excluded under <u>section 261.4(a)(13)</u>	(*)	(*)	(*)		(*)

Note: The terms “spent materials,” “sludges,” “by-products,” “scrap metal,” and “processed scrap metal” are defined in section 261.1.

**Revise 61-79.261.4(a)(23) to read:**

(23) ~~[Reserved and Withdrawn]~~ Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with paragraphs (a)(23)(i) and (ii) of this section:

(i)(A) The hazardous secondary material is generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator); or

(B) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in section 260.10, and if the generator provides one of the following certifications: “on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material,” or “on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.” For purposes of this

paragraph, “control” means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in section 260.10 shall not be deemed to “control” such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three (3) years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of Department of Transportation (DOT) shipping papers, or electronic confirmations); or

(C) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: “On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process”. The tolling contractor must maintain at its facility for no less than three (3) years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three (3) years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations). For purposes of this paragraph, tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

(ii)(A) The hazardous secondary material is contained as defined in section 260.10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste.

(B) The hazardous secondary material is not speculatively accumulated, as defined in section 261.1(c)(8).

(C) Notice is provided as required by section 260.42.

(D) The material is not otherwise subject to material-specific management conditions under paragraph (a) of this section when reclaimed, and it is not a spent lead-acid battery (see sections 266.80 and 273.2).

(E) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in section 260.43(a) and how the factor in section 260.43(b) was considered. Documentation must be maintained for three (3) years after the recycling operation has ceased.

(F) The emergency preparedness and response requirements found in R.61-79.261 subpart M are met.

**Revise 61-79.261.4(a)(24) to read:**

(24) ~~[Withdrawn]~~ Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste, provided that:

(i) The material is not speculatively accumulated, as defined in section 261.1(c)(8);

(ii) The material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than ten (10) days at a transfer facility, as defined in section 260.10, and is packaged according to applicable DOT regulations at 49 CFR parts 173, 178, and 179 while in transport;

(iii) The material is not otherwise subject to material-specific management conditions under paragraph (a) of this section when reclaimed, and it is not a spent lead-acid battery (see sections 266.80 and 273.2);

(iv) The reclamation of the material is legitimate, as specified under section 260.43;

(v) The hazardous secondary material generator satisfies all of the following conditions:

(A) The material must be contained as defined in section 260.10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste.

(B) Prior to arranging for transport of hazardous secondary materials to a reclamation facility (or facilities) where the management of the hazardous secondary materials is not addressed under a RCRA part B permit (a federally-issued RCRA permit or a hazardous waste permit issued by the Department) or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three (3) years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, and/or provided by a third party. The hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:

(1) Does the available information indicate that the reclamation process is legitimate pursuant to section 260.43? In answering this question, the hazardous secondary material generator can rely on their

existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.

(2) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to section 260.42 and have they notified the appropriate authorities that the financial assurance condition is satisfied per paragraph (a)(24)(vi)(F) of this section? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per section 260.42, including the requirement in section 260.42(a)(5) to notify the Department whether the reclaimer or intermediate facility has financial assurance.

(3) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three (3) years for violations of the South Carolina Hazardous Waste Management Regulations and has not been classified as a significant non-complier with the Department? In answering this question, the hazardous secondary material generator can rely on the publicly available information from EPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three (3) years for violations of the South Carolina Hazardous Waste Management Regulations and has been classified as a significant non-complier with the Department, does the hazardous secondary material generator have credible evidence that the facilities will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from EPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(4) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

(5) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from EPA or the state, or information provided by the facility itself.

(C) The hazardous secondary material generator must maintain for a minimum of three (3) years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards prior to transferring hazardous secondary material. Documentation and certification must be made available upon request by a regulatory authority within seventy-two (72) hours, or within a longer period of time as specified by the regulatory authority. The certification statement must:



(1) Include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed;

(2) Incorporate the following language: "I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert name(s) of reclamation facility and any intermediate facility], reasonable efforts were made in accordance with section 261.4(a)(24)(v)(B) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

(D) The hazardous secondary material generator must maintain at the generating facility for no less than three (3) years records of all off-site shipments of hazardous secondary materials. For each shipment, these records must, at a minimum, contain the following information:

(1) Name of the transporter and date of the shipment;

(2) Name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(3) The type and quantity of hazardous secondary material in the shipment.

(E) The hazardous secondary material generator must maintain at the generating facility for no less than three (3) years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt);

(F) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in R.61-79.261 subpart M.

(vi) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities as defined in section 260.10 satisfy all of the following conditions:

(A) The reclaimer and intermediate facility must maintain at its facility for no less than three (3) years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must at a minimum contain the following information:

(1) Name of the transporter and date of the shipment;

(2) Name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the hazardous secondary materials were received;

(3) The type and quantity of hazardous secondary material in the shipment; and

(4) For hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address

of the (subsequent) reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.

(B) The intermediate facility must send the hazardous secondary material to the reclaimer(s) designated by the hazardous secondary materials generator.

(C) The reclaimer and intermediate facility must send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

(D) The reclaimer and intermediate facility must manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and must be contained. An “analogous raw material” is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material.

(E) Any residuals that are generated from reclamation processes will be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to R.61-79.261 subpart C, or if they themselves are specifically listed in R.6-79.261 subpart D, such residuals are hazardous wastes and must be managed in accordance with the applicable requirements of R.61-79.260 through 272.

(F) The reclaimer and intermediate facility have financial assurance as required under R.61-79.261 subpart H.

(vii) In addition, all persons claiming the exclusion under paragraph (a)(24) of this section must provide notification as required under section 260.42.

**Revise 61-79.261.4(a)(25) to read:**

(25) ~~{Reserved}~~ Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of paragraph (a)(24)(i) through (v) of this section (excepting paragraph (a)(24)(v)(B)(2) of this section for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:

(i) Notify EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification must be submitted at least sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:

(A) Name, mailing address, telephone number, and EPA Identification Number (if applicable) of the hazardous secondary material generator;

(B) A description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, and the DOT proper

shipping name, hazard class, and ID number (UN/NA) for each hazardous secondary material as identified in 49 CFR parts 171 through 177;

(C) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;

(D) The estimated total quantity of hazardous secondary material;

(E) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;

(F) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and type(s) of container (drums, boxes, tanks, etc.));

(G) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;

(H) The name and address of the reclaimer, any intermediate facility and any alternate reclaimer and intermediate facilities; and

(I) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this section, the terms “EPA Acknowledgement of Consent”, “country of import”, and “country of transit” are used as defined in section 262.81 with the exception that the terms in this section refer to hazardous secondary materials, rather than hazardous waste);

(ii) Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

(iii) Except for changes to the telephone number in paragraph (a)(25)(i)(A) of this section and decreases in the quantity of hazardous secondary material indicated pursuant to paragraph (a)(25)(i)(D) of this section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide EPA with a written renotification of the change. The shipment cannot take place until consent of the country of import to the changes (except for changes to paragraph (a)(25)(i)(I) of this section and in the ports of entry to and departure from countries of transit pursuant to paragraphs (a)(25)(i)(E) of this section) has been obtained and the hazardous secondary material generator receives from EPA an EPA Acknowledgment of Consent reflecting the country of import’s consent to the changes.

(iv) Upon request by EPA, the hazardous secondary material generator shall furnish to EPA any additional information which a country of import requests in order to respond to a notification.

(v) EPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(25)(i) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a)(25)(i) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(vi) The export of hazardous secondary material under this paragraph (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, EPA will send an EPA Acknowledgment of Consent to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, EPA will notify the hazardous secondary material generator in writing. EPA will also notify the hazardous secondary material generator of any responses from countries of transit.

(vii) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to paragraph (a)(25)(i) of this section within thirty (30) days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, EPA will send an EPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one (1) calendar year after the close of the thirty (30) day period; renotification and renewal of all consents is required for exports after that date.

(viii) A copy of the EPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the EPA Acknowledgment of Consent.

(ix) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility, or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with paragraph (iii) of this section and obtain another EPA Acknowledgment of Consent.

(x) Hazardous secondary material generators must keep a copy of each notification of intent to export and each EPA Acknowledgment of Consent for a period of three (3) years following receipt of the EPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if they can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the hazardous secondary material generator bears no responsibility.

(xi) Hazardous secondary material generators must file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. Such reports must include the following information:

(A) Name, mailing and site address, and EPA Identification Number (if applicable) of the hazardous secondary material generator;

(B) The calendar year covered by the report;

(C) The name and site address of each reclaimer and intermediate facility;

(D) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, the DOT hazard class, the name and EPA Identification Number (where applicable) for each transporter used, the total amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification;

(E) A certification signed by the hazardous secondary material generator which states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(xii) All persons claiming an exclusion under this paragraph (a)(25) must provide notification as required by section 260.42.

**Add 61-79.261.4(a)(27) to read:**

(27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that:

(i) The hazardous secondary material consists of one (1) or more of the following spent solvents: Toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, NN-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, and/or methanol;

(ii) The hazardous secondary material originated from using one (1) or more of the solvents listed in paragraph (a)(27)(i) of this section in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510).

(iii) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in paragraph (a)(27)(i) of this section to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510).

(iv) After remanufacturing one (1) or more of the solvents listed in paragraph (a)(27)(i) of this section, the use of the remanufactured solvent shall be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the Chemical Data Reporting Rule of the Toxic Substances Control Act (40 CFR parts 704, 710, and 711), including Industrial Function Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents become part of the mixture);

(v) After remanufacturing one (1) or more of the solvents listed in paragraph (a)(27)(i) of this section, the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar

material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Code U029 under the Chemical Data Reporting Rule of the Toxics Substances Control Act.); and

(vi) Both the hazardous secondary material generator and the remanufacturer must:

(A) Notify EPA or the Department, if the state is authorized for the program, and update the notification every two (2) years per section 260.42;

(B) Develop and maintain an up-to-date remanufacturing plan which identifies:

(1) The name, address, and EPA Identification Number of the generator(s) and the remanufacturer(s),

(2) The types and estimated annual volumes of spent solvents to be remanufactured,

(3) The processes and industry sectors that generate the spent solvents,

(4) The specific uses and industry sectors for the remanufactured solvents, and

(5) A certification from the remanufacturer stating “on behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61, or part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in R.61-79.261 subparts AA (vents), BB (equipment), and CC (tank storage).”;

(C) Maintain records of shipments and confirmations of receipts for a period of three (3) years from the dates of the shipments;

(D) Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in R.61-79.261 subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

(E) During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61, or part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in R.61-79.261 subparts AA (vents), BB (equipment), and CC (tank storage); and

(F) Meet the requirements prohibiting speculative accumulation per section 261.1(c)(8).

**Revise 61-79.261.6(a)(2) to read:**

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through N of R.61-79.266 and all applicable provisions in R.61-79.268, 270, and 124.

(i) Recyclable materials used in a manner constituting disposal (~~part~~ R.61-79.266, subpart C);

(ii) Hazardous wastes burned (as defined in section 266.100(a)) in boilers and industrial furnaces that are not regulated under subpart O of R.61-79.264 or 265 (~~Part~~ R.61-79.266, ~~S~~subpart H);

(iii) ~~Reserved 6/06~~ Recyclable materials from which precious metals are reclaimed (R.61-79.266 subpart F);

(iv) ~~Recyclable materials from which precious metals are reclaimed (40 CFR part 266, subpart F);~~ Spent lead-acid batteries that are being reclaimed (R.61-79.266 subpart G).

(v) ~~Spent lead-acid batteries that are being reclaimed (40 CFR part 266, subpart G).~~

**Revise 61-79.261.6(a)(3) to read:**

(3) The following recyclable materials are not subject to regulation under R.61-79.124, 262 through 266, ~~or~~ 268, ~~or~~ 270 and are not subject to the notification requirements of the South Carolina Hazardous Waste Management Act 44-56-120 and section 3010 RCRA.

**Revise 61-79.261.11(c) to read:**

(c) The Department will use the criteria for listing specified in this section to establish the exclusion limits referred to in ~~Section 261.5(e)~~ section 262.13.

**Revise 61-79.261.30(d) to read:**

(d) The following hazardous wastes listed in section 261.31 are subject to the exclusion limits for acutely hazardous wastes established in section 261.5: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027.

**Revise 61-79.261.31(b)(4)(i) to read:**

(i) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

**Revise 61-79.261.31(b)(4)(ii) to read:**

(ii) Generators must maintain in their on-site records; documentation and information sufficient to prove that the exempted wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. Records ~~These records~~ must include: the volume of waste generated and disposed of off site; documentation showing when the wastes volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on site for no less than three (3) years. The ~~Retention~~

period for the documentation is automatically extended during ~~at~~ the course of any enforcement action or as requested by the ~~Regional Administrator~~Department or the state regulatory authority.

**Revise 61-79.261.39(d) to read:**

(d) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of ~~40 CFR part R.61-79.266~~, subpart C instead of the requirements of this section.

**Add and reserve 61-79.261 Subparts F and G to read:**

SUBPART F: [Reserved]

SUBPART G: [Reserved]

**Add 61-79.261 Subpart H to read:**

**SUBPART H: Financial Requirements for Management of Excluded Hazardous Secondary Materials**

**261.140. Applicability.**

(a) The requirements of this subpart apply to owners or operators of reclamation and intermediate facilities managing hazardous secondary materials excluded under section 261.4(a)(24), except as provided otherwise in this section.

(b) States and the federal government are exempt from the financial assurance requirements of this subpart.

**261.141. Definitions of terms as used in this subpart.**

The terms defined in section 265.141(d), (f), (g), and (h) have the same meaning in this subpart as they do in section 265.141.

**261.142. Cost estimate.**

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of disposing of any hazardous secondary material as listed or characteristic hazardous waste, and the potential cost of closing the facility as a treatment, storage, and disposal facility.

(1) The estimate must equal the cost of conducting the activities described in paragraph (a) of this section at the point when the extent and manner of the facility's operation would make these activities the most expensive; and

(2) The cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct these activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in section 265.141(d)). The owner or operator may use costs for on-site disposal in accordance with applicable requirements if it can be demonstrated that on-site disposal capacity will exist at all times over the life of the facility.



(3) The cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous secondary materials, or hazardous or non-hazardous wastes if applicable under section 265.5113(d) facility structures or equipment, land, or other assets associated with the facility.

(4) The owner or operator may not incorporate a zero cost for hazardous secondary materials, or hazardous or non-hazardous wastes if applicable under section 265.5113(d) that might have economic value.

(b) During the active life of the facility, the owner or operator must adjust the cost estimate for inflation within sixty (60) days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with section 261.143. For owners and operators using the financial test or corporate guarantee, the cost estimate must be updated for inflation within thirty (30) days after the close of the firm's fiscal year and before submission of updated information to the Department as specified in section 261.143(e)(3). The adjustment may be made by recalculating the cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified in paragraphs (b)(1) and (2) of this section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator must revise the cost estimate no later than thirty (30) days after a change in the facility's operating plan or design that would increase the costs of conducting the activities described in paragraph (a) or no later than sixty (60) days after an unexpected event which increases the cost of conducting the activities described in paragraph (a) of this section. The revised cost estimate must be adjusted for inflation as specified in paragraph (b) of this section.

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest cost estimate prepared in accordance with paragraphs (a) and (c) and, when this estimate has been adjusted in accordance with paragraph (b), the latest adjusted cost estimate.

### **261.143. Financial assurance condition.**

Per section 261.4(a)(24)(vi)(F), an owner or operator of a reclamation or intermediate facility must have financial assurance as a condition of the exclusion as required under section 261.4(a)(24). They must choose from the options as specified in paragraphs (a) through (e) of this section.

#### **(a) Trust fund.**

(1) An owner or operator may satisfy the requirements of this section by establishing a trust fund which conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Department. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The wording of the trust agreement must be identical to the wording specified in section 261.151(a)(1), and the trust agreement must be accompanied by a formal certification of acknowledgment

(for example, see section 261.151(a)(2)). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current cost estimate covered by the agreement.

(3) The trust fund must be funded for the full amount of the current cost estimate before it may be relied upon to satisfy the requirements of this section.

(4) Whenever the current cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(5) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Department for release of the amount in excess of the current cost estimate.

(6) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, a written request may be submitted to the Department for release of the amount in excess of the current cost estimate covered by the trust fund.

(7) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in paragraph (a)(5) or (6) of this section, the Department will instruct the trustee to release to the owner or operator such funds as the Department specifies in writing. If the owner or operator begins final closure under subpart G of R.61-79.264 or 265, an owner or operator may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Department. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than sixty (60) days after receiving bills for partial or final closure activities, the Department will instruct the trustee to make reimbursements in those amounts as the Department specifies in writing, if the Department determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Department has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it may withhold reimbursements of such amounts as deemed prudent until it determines, in accordance with section 265.143(i) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Department does not instruct the trustee to make such reimbursements, it will provide to the owner or operator a detailed written statement of reasons.

(8) The Department will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Department releases the owner or operator from the requirements of this section in accordance with paragraph (i) of this section.

(b) Surety bond guaranteeing payment into a trust fund.

(1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in section 261.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Department. This standby trust fund must meet the requirements specified in paragraph (a) of this section, except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Department with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in paragraph (a) of this section;

(B) Updating of Schedule A of the trust agreement (see section 261.151(a)) to show current cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before loss of the exclusion under section 261.4(a)(24);

(ii) Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an administrative order to begin closure issued by the Department becomes final, or within fifteen (15) days after an order to begin closure is issued by a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in this section, and obtain the Department's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the Department of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the current cost estimate, except as provided in paragraph (f) of this section.

(7) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Department, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Department.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Department. Cancellation may not occur, however, during

the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Department, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Department has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(c) Letter of credit.

(1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Department. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

(2) The wording of the letter of credit must be identical to the wording specified in section 261.151(c).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Department. This standby trust fund must meet the requirements of the trust fund specified in paragraph (a) of this section, except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Department with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in paragraph (a) of this section;

(B) Updating of Schedule A of the trust agreement (see section 261.151(a)) to show current cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: The EPA Identification Number (if any issued), name, and address of the facility, and the amount of funds assured for the facility by the letter of credit.

(5) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner or operator and the Department by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner or operator and the Department have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current cost estimate, except as provided in paragraph (f) of this section.

(7) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within sixty (60) days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current cost estimate and submit evidence of such increase to the Department, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current cost estimate following written approval by the Department.

(8) Following a determination by the Department that the hazardous secondary materials do not meet the conditions of the exclusion under section 261.4(a)(24), the Department may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the Department within ninety (90) days after receipt by both the owner or operator and the Department of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Department will draw on the letter of credit. The Department may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of any such extension the Department will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the Department.

(10) The Department will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Department releases the owner or operator from the requirements of this section in accordance with paragraph (i) of this section.

(d) Insurance.

(1) An owner or operator may satisfy the requirements of this section by obtaining insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Department. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

(2) The wording of the certificate of insurance must be identical to the wording specified in section 261.151(d).

(3) The insurance policy must be issued for a face amount at least equal to the current cost estimate, except as provided in paragraph (f) of this section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The insurance policy must guarantee that funds will be available whenever needed to pay the cost of removal of all hazardous secondary materials from the unit, to pay the cost of decontamination of the unit, and to pay the costs of the performance of activities required under subpart G of R.61-79.264 or 265, as applicable, for the facilities covered by this policy. The policy must also guarantee that once funds are needed, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Department, to such party or parties as the Department specifies.

(5) After beginning partial or final closure under R.61-79.264 or 265, as applicable, an owner or operator or any other authorized person may request reimbursements for closure expenditures by submitting

itemized bills to the Department. The owner or operator may request reimbursements only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within sixty (60) days after receiving bills for closure activities, the Department will instruct the insurer to make reimbursements in such amounts as the Department specifies in writing if the Department determines that the expenditures are in accordance with the approved plan or otherwise justified. If the Department has reason to believe that the maximum cost over the remaining life of the facility will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as deemed prudent until it determines, in accordance with paragraph (h) of this section, that the owner or operator is no longer required to maintain financial assurance for the particular facility. If the Department does not instruct the insurer to make such reimbursements, it will provide to the owner or operator a detailed written statement of reasons.

(6) The owner or operator must maintain the policy in full force and effect until the Department consents to termination of the policy by the owner or operator as specified in paragraph (i)(10) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations warranting such remedy as the Department deems necessary. Such violation will be deemed to begin upon receipt by the Department of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Department. Cancellation, termination, or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the Department and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Department deems the facility abandoned; or

(ii) Conditional exclusion or interim status is lost, terminated, or revoked; or

(iii) Closure is ordered by the Department or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Department, or obtain other financial assurance as specified in this section to cover the increase.

Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Department.

(10) The Department will give written consent to the owner or operator that the insurance policy may be terminated when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Department releases the owner or operator from the requirements of this section in accordance with paragraph (i) of this section.

(e) Financial test and corporate guarantee.

(1) An owner or operator may satisfy the requirements of this section by demonstrating that they pass a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (e)(1)(i) or (ii) of this section:

(i) The owner or operator must have:

(A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six (6) times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least ten (10) million dollars; and

(D) Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator must have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six (6) times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and

(C) Tangible net worth of at least ten (10) million dollars; and

(D) Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs (1) through (4) of the letter from the owner's or operator's chief financial officer (section 261.151(e)). The phrase "current plugging and abandonment cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs (1) through (4) of the letter from the owner's or operator's chief financial officer (40 CFR 144.70(f)).

(3) To demonstrate that they meet this test, the owner or operator must submit the following items to the Department:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in section 261.151(e); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies paragraph (e)(1)(i) of this section that are different from the data in the audited financial statements referred to in paragraph (e)(3)(ii) of this section or any other audited financial statement or data filed with the U.S. Securities and Exchange Commission (SEC), then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based on an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of the comparison, and the reasons for any differences.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in paragraph (e)(3) of this section if the fiscal year of the owner or operator ends during the ninety (90) days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than ninety (90) days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Department. This letter from the chief financial officer must:

(i) Request the extension;

(ii) Certify that they have grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number (if any issued), name, address, and current cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations in this subpart;

(v) Specify the date, no later than ninety (90) days after the end of such fiscal year, when the documents specified in paragraph (e)(3) of this section will be submitted; and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in paragraph (e)(3) of this section, the owner or operator must send updated information to the Department within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in paragraph (e)(3) of this section.



(6) If the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, notice must be sent to the Department of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within one hundred twenty (120) days after the end of such fiscal year.

(7) The Department may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (e)(1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (e)(3) of this section. If the Department finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, the owner or operator must provide alternate financial assurance as specified in this section within thirty (30) days after notification of such a finding.

(8) The Department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (e)(3)(ii) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Department will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within thirty (30) days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in paragraph (e)(3) of this section when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Department releases the owner or operator from the requirements of this section in accordance with paragraph (i) of this section.

(10) An owner or operator may meet the requirements of this section by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (e)(1) through (8) of this section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in section 261.151(g)(1). A certified copy of the guarantee must accompany the items sent to the Department as specified in paragraph (e)(3) of this section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

(i) Following a determination by the Department that the hazardous secondary materials at the owner or operator's facility covered by this guarantee do not meet the conditions of the exclusion under section 261.4(a)(24), the guarantor will dispose of any hazardous secondary material as hazardous waste and close the facility in accordance with closure requirements found in R.61-79.264 or 265, as applicable, or establish a trust fund as specified in paragraph (a) of this section in the name of the owner or operator in the amount of the current cost estimate.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Department, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the Department within ninety (90) days after receipt by both the owner or operator and the Department of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this section by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (a) through (d) of this section, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the trust fund may be used as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two (2) or more mechanisms. The Department may use any or all of the mechanisms to provide for the facility.

(g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one (1) facility. Evidence of financial assurance submitted to the Department must include a list showing, for each facility, the EPA Identification Number (if any issued), name, address, and the amount of funds assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for any of the facilities covered by the mechanism, the Department may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) Removal and Decontamination Plan for Release.

(1) An owner or operator of a reclamation facility or an intermediate facility who wishes to be released from financial assurance obligations under section 261.4(a)(24)(vi)(F) must submit a plan for removing all hazardous secondary material residues to the Department at least one hundred eighty (180) days prior to the date on which operations are expected to cease under the exclusion.

(2) The plan must include, at least:

(i) For each hazardous secondary materials storage unit subject to financial assurance requirements under section 261.4(a)(24)(vi)(F), a description of how all excluded hazardous secondary materials will be recycled or sent for recycling, and how all residues, contaminated containment systems (liners, etc), contaminated soils, subsoils, structures, and equipment will be removed or decontaminated as necessary to protect human health and the environment;

(ii) A detailed description of the steps necessary to remove or decontaminate all hazardous secondary material residues and contaminated containment system components, equipment, structures, and soils including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to protect human health and the environment;

(iii) A detailed description of any other activities necessary to protect human health and the environment during this timeframe, including, but not limited to, leachate collection, run-on and run-off control, etc; and

(iv) A schedule for conducting the activities described which, at a minimum, includes the total time required to remove all excluded hazardous secondary materials for recycling and decontaminate all units subject to financial assurance under section 261.4(a)(24)(vi)(F) and the time required for intervening activities which will allow tracking of the progress of decontamination.

(3) The Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than thirty (30) days from the date of the notice. The Department will also, in response to a request or at its discretion, hold a public hearing whenever such a hearing might clarify one (1) or more issues concerning the plan. The Department will give public notice of the hearing at least thirty (30) days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two (2) notices may be combined.) The Department will approve, modify, or disapprove the plan within ninety (90) days of its receipt. If the Department does not approve the plan, it shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within thirty (30) days after receiving such written statement. The Department will approve or modify this plan in writing within sixty (60) days. If the Department modifies the plan, this modified plan becomes the approved plan. The Department must assure that the approved plan is consistent with paragraph (h) of this section. A copy of the modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(4) Within sixty (60) days of completion of the activities described for each hazardous secondary materials management unit, the owner or operator must submit to the Department, by registered mail, a certification that all hazardous secondary materials have been removed from the unit and the unit has been decontaminated in accordance with the specifications in the approved plan. The certification must be signed by the owner or operator and by a qualified Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Department upon request, until it releases the owner or operator from the financial assurance requirements for section 261.4(a)(24)(vi)(F).

(i) Release of the owner or operator from the requirements of this section. Within sixty (60) days after receiving certifications from the owner or operator and a qualified Professional Engineer that all hazardous secondary materials have been removed from the facility or a unit at the facility, and the facility or a unit has been decontaminated in accordance with the approved plan per paragraph (h), the Department will notify the owner or operator in writing that they are no longer required under section 261.4(a)(24)(vi)(F) to maintain financial assurance for that facility or a unit at the facility, unless the Department has reason to believe that all hazardous secondary materials have not been removed from the facility or unit at a facility, or that the facility or unit has not been decontaminated in accordance with the approved plan. The Department shall provide the owner or operator a detailed written statement of any such reason to believe that all hazardous secondary materials have not been removed from the unit or that the unit has not been decontaminated in accordance with the approved plan.

**261.144. [Reserved]**

**261.145. [Reserved]**

**261.146. [Reserved]**

### **261.147. Liability requirements.**

(a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous secondary material reclamation facility or an intermediate facility subject to financial assurance requirements under section 261.4(a)(24)(vi)(F), or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least one (1) million dollars per occurrence with an annual aggregate of at least two (2) million dollars, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in paragraphs (a)(1), (2), (3), (4), (5), or (6) of this section:

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.

(i) Each insurance policy must be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement, or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in section 261.151(h). The wording of the certificate of insurance must be identical to the wording specified in section 261.151(i). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Department. If requested by a Department, the owner or operator must provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states.

(2) An owner or operator may meet the requirements of this section by passing a financial test or using the guarantee for liability coverage as specified in paragraphs (f) and (g) of this section.

(3) An owner or operator may meet the requirements of this section by obtaining a letter of credit for liability coverage as specified in paragraph (h) of this section.

(4) An owner or operator may meet the requirements of this section by obtaining a surety bond for liability coverage as specified in paragraph (i) of this section.

(5) An owner or operator may meet the requirements of this section by obtaining a trust fund for liability coverage as specified in paragraph (j) of this section.

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this paragraph, the owner or operator shall specify at least one (1) such assurance as “primary” coverage and shall specify other assurance as “excess” coverage.

(7) An owner or operator shall notify the Department in writing within thirty (30) days whenever:

(i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in paragraphs (a)(1) through (a)(6) of this section; or

(ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material reclamation facility or intermediate facility is entered between the owner or operator and third-party claimant for liability coverage under paragraphs (a)(1) through (a)(6) of this section; or

(iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material reclamation facility or intermediate facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under paragraphs (a)(1) through (a)(6) of this section.

(b) Coverage for nonsudden accidental occurrences. An owner or operator of a hazardous secondary material reclamation facility or intermediate facility with land-based units, as defined in section 260.10, which are used to manage hazardous secondary materials excluded under section 261.4(a)(24) or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least three (3) million dollars per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator who must meet the requirements of this section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least four (4) million dollars per occurrence and eight (8) million dollars annual aggregate. This liability coverage may be demonstrated as specified in paragraph (b)(1), (2), (3), (4), (5), or (6) of this section:

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.

(i) Each insurance policy must be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in section 261.151(h). The wording of the certificate of insurance must be identical to the wording specified in section 261.151(i). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Department. If requested by the Department, the owner or operator must provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states.

(2) An owner or operator may meet the requirements of this section by passing a financial test or using the guarantee for liability coverage as specified in paragraphs (f) and (g) of this section.

(3) An owner or operator may meet the requirements of this section by obtaining a letter of credit for liability coverage as specified in paragraph (h) of this section.

(4) An owner or operator may meet the requirements of this section by obtaining a surety bond for liability coverage as specified in paragraph (i) of this section.

(5) An owner or operator may meet the requirements of this section by obtaining a trust fund for liability coverage as specified in paragraph (j) of this section.

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this paragraph, the owner or operator shall specify at least one (1) such assurance as “primary” coverage and shall specify other assurance as “excess” coverage.

(7) An owner or operator shall notify the Department in writing within thirty (30) days whenever:

(i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in paragraphs (b)(1) through (b)(6) of this section; or

(ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material treatment and/or storage facility is entered between the owner or operator and third-party claimant for liability coverage under paragraphs (b)(1) through (b)(6) of this section; or

(iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material treatment and/or storage facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under paragraphs (b)(1) through (b)(6) of this section.

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the Department that the levels of financial responsibility required by paragraph (a) or (b) of this section are not consistent with the degree and duration of risk associated with treatment and/or storage at the facility or group of facilities, the owner or operator may obtain a variance from the Department. The request for a variance must be submitted in writing to the Department. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the Department’s assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Department to determine a level of financial responsibility other than that required by paragraph (a) or (b) of this section.

(d) Adjustments by the Department. If the Department determines that the levels of financial responsibility required by paragraph (a) or (b) of this section are not consistent with the degree and duration of risk associated with treatment and/or storage at the facility or group of facilities, the Department may adjust the level of financial responsibility required under paragraph (a) or (b) of this section as may be necessary to protect human health and the environment. This adjusted level will be based on the Department’s assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, pile, or land treatment facility, it may require that an owner or operator of the facility comply with paragraph (b) of this section. An owner or operator must furnish to the

Department, within a reasonable time, any information which the Department requests to determine whether cause exists for such adjustments of level or type of coverage.

(e) Period of coverage. Within sixty (60) days after receiving certifications from the owner or operator and a qualified Professional Engineer that all hazardous secondary materials have been removed from the facility or a unit at the facility and the facility or a unit has been decontaminated in accordance with the approved plan per section 261.143(h), the Department will notify the owner or operator in writing that they are no longer required under section 261.4(a)(24)(vi)(F) to maintain liability coverage for that facility or a unit at the facility, unless the Department has reason to believe that that all hazardous secondary materials have not been removed from the facility or unit at a facility or that the facility or unit has not been decontaminated in accordance with the approved plan.

(f) Financial test for liability coverage.

(1) An owner or operator may satisfy the requirements of this section by demonstrating that they pass a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of paragraph (f)(1) (i) or (ii) of this section:

(i) The owner or operator must have:

(A) Net working capital and tangible net worth each at least six (6) times the amount of liability coverage to be demonstrated by this test; and

(B) Tangible net worth of at least ten (10) million dollars; and

(C) Assets in the United States amounting to either:

(1) At least ninety (90) percent of their total assets; or

(2) At least six (6) times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator must have:

(A) A current rating for their most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth of at least ten (10) million dollars; and

(C) Tangible net worth at least six (6) times the amount of liability coverage to be demonstrated by this test; and

(D) Assets in the United States amounting to either:

(1) At least ninety (90) percent of their total assets; or

(2) at least six (6) times the amount of liability coverage to be demonstrated by this test.

(2) The phrase "amount of liability coverage" as used in paragraph (f)(1) of this section refers to the annual aggregate amounts for which coverage is required under paragraphs (a) and (b) of this section and the annual aggregate amounts for which coverage is required under paragraphs (a) and (b) of sections 264.147 and 265.147.

(3) To demonstrate that they meet this test, the owner or operator must submit the following three (3) items to the Department:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in section 261.151(f). If an owner or operator is using the financial test to demonstrate both assurance as specified by section 261.143(e), and liability coverage, the letter specified in section 261.151(f) must be submitted to cover both forms of financial responsibility; a separate letter as specified in section 261.151(e) is not required.

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

(iii) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies paragraph (f)(1)(i) of this section that are different from the data in the audited financial statements referred to in paragraph (f)(3)(ii) of this section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based on an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of the comparison, and the reasons for any difference.

(4) The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in paragraph (f)(3) of this section if the fiscal year of the owner or operator ends during the ninety (90) days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than ninety (90) days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Department and to each state agency or Regional Administrator, as appropriate, where the owner's or operator's facilities to be covered by the financial test are located. This letter from the chief financial officer must:

(i) Request the extension;

(ii) Certify that there are grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number, name, address, the amount of liability coverage and, when applicable, current closure and post-closure cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations;

(v) Specify the date, no later than ninety (90) days after the end of such fiscal year, when the documents specified in paragraph (f)(3) of this section will be submitted; and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.



(5) After the initial submission of items specified in paragraph (f)(3) of this section, the owner or operator must send updated information to the Department within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (f)(3) of this section.

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this section must be obtained. Evidence of liability coverage must be submitted to the Department within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(7) The Department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Department will evaluate other qualifications on an individual basis. The owner or operator must provide evidence of assurance for the entire amount of required liability coverage as specified in this section within thirty (30) days after notification of disallowance.

(g) Guarantee for liability coverage.

(1) Subject to paragraph (g)(2) of this section, an owner or operator may meet the requirements of this section by obtaining a written guarantee, hereinafter referred to as "guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (f)(1) through (f)(6) of this section. The wording of the guarantee must be identical to the wording specified in section 261.151(g)(2). A certified copy of the guarantee must accompany the items sent to the Department as specified in paragraph (f)(3) of this section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

(i) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

(ii) [Reserved]

(2)(i) In the case of corporations incorporated in the United States, a guarantee may be used to satisfy the requirements of this section only if the Attorney General or Insurance Commissioner of:

(A) The state in which the guarantor is incorporated; and

(B) Each state in which a facility covered by the guarantee is located have submitted a written statement to the Department that a guarantee executed as described in this section and section 264.151(g)(2) is a legally valid and enforceable obligation in South Carolina

(ii) In the case of corporations incorporated outside the United States, a guarantee may be used to satisfy the requirements of this section only if:

(A) The non-U.S. corporation has identified a registered agent for service of process in each state in which a facility covered by the guarantee is located and in the state in which it has its principal place of business; and if

(B) The Attorney General or Insurance Commissioner of each state in which a facility covered by the guarantee is located and the state in which the guarantor corporation has its principal place of business, has submitted a written statement to the Department that a guarantee executed as described in this section and section 261.151(h)(2) is a legally valid and enforceable obligation in that state.

(h) Letter of credit for liability coverage.

(1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this paragraph and submitting a copy of the letter of credit to the Department.

(2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(3) The wording of the letter of credit must be identical to the wording specified in section 261.151(j).

(4) An owner or operator who uses a letter of credit to satisfy the requirements of this section may also establish a standby trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(5) The wording of the standby trust fund must be identical to the wording specified in section 261.151(m).

(i) Surety bond for liability coverage.

(1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond that conforms to the requirements of this paragraph and submitting a copy of the bond to the Department.

(2) The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the most recent Circular 570 of the U.S. Department of the Treasury.

(3) The wording of the surety bond must be identical to the wording specified in section 261.151(k) of this chapter.

(4) A surety bond may be used to satisfy the requirements of this section only if the Attorney General or Insurance Commissioner of:

(i) The state in which the surety is incorporated; and

(ii) Each state in which a facility covered by the surety bond is located have submitted a written statement to the Department that a surety bond executed as described in this section and section 261.151(k) is a legally valid and enforceable obligation in South Carolina.

(j) Trust fund for liability coverage.

(1) An owner or operator may satisfy the requirements of this section by establishing a trust fund that conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Department.

(2) The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of the liability coverage to be provided, the owner or operator, by the anniversary date of the establishment of the trust fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this section to cover the difference. For purposes of this paragraph, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and/or nonsudden occurrences required to be provided by the owner or operator by this section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

(4) The wording of the trust fund must be identical to the wording specified in section 261.151(l).

#### **261.148. Incapacity of owners or operators, guarantors, or financial institutions.**

(a) An owner or operator must notify the Department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within ten (10) days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in section 261.143(e) must make such a notification if named as debtor, as required under the terms of the corporate guarantee.

(b) An owner or operator who fulfills the requirements of section 261.143 or section 261.147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty (60) days after such an event.

#### **261.151. Wording of the instruments.**

(a)(1) A trust agreement for a trust fund, as specified in section 261.143(a) must be worded as noted in section 261.151 Appendix A-1, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(2) Section 261.151 Appendix A-2 is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in section 261.143(a).

(b) A surety bond guaranteeing payment into a trust fund, as specified in section 261.143(b), must be worded as noted in section 261.151 Appendix B, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(c) A letter of credit, as specified in section 261.143(c), must be worded as noted in section 261.151 Appendix C, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(d) A certificate of insurance, as specified in section 261.143(e), must be worded as noted in section 261.151 Appendix D, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(e) A letter from the chief financial officer, as specified in section 261.143(e), must be worded as noted in section 261.151 Appendix E, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(f) A letter from the chief financial officer, as specified in section 261.147(f) must be worded as noted in section 261.151 Appendix F, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(g)(1) A corporate guarantee, as specified in section 261.143(e), must be worded as noted in section 261.151 Appendix G-1, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(2) A guarantee, as specified in section 261.147(g), must be worded as noted in section 261.151 Appendix G-2, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(h) A hazardous waste facility liability endorsement as required in section 261.147 must be worded as noted in section 261.151 Appendix H, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(i) A certificate of liability insurance as required in section 261.147 must be worded as noted in section 261.151 Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(j) A letter of credit, as specified in section 261.147(h), must be worded as noted in section 261.151 Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(k) A surety bond, as specified in section 261.147(i), must be worded as noted in section 261.151 Appendix K, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(l)(1) A trust agreement, as specified in section 261.147(j), must be worded as noted in section 261.151 Appendix L-1, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(2) Section 261.151 Appendix L-2 is an example of the certification of acknowledgement which must accompany the trust agreement for a trust fund as specified in section 261.147(j).

(m)(1) A standby trust agreement, as specified in section 261.147(h), must be worded as noted in section 261.151 Appendix M-1, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

(2) Section 261.151 Appendix M-2 is an example of the certification of acknowledgement which must accompany the trust agreement for a standby trust fund as specified in section 261.147(h).

## **261.151. APPENDIX A-1**

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT TRUST AGREEMENT, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of -----" or "a national bank"], the "Trustee."

WHEREAS, the South Carolina Department of Health and Environmental Control, hereafter referred to as the "Department," an agency of South Carolina, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a facility regulated under R.61-79.264 or 265, or satisfying the conditions of the exclusion under section 261.4(a)(24) shall provide assurance that funds will be available if needed for care of the facility under subpart G of R.61-79.264 or 265, as applicable,

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee,

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the EPA Identification Number (if available), name, address, and the current cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department in the event that the hazardous secondary materials of the Grantor no longer meet the conditions of the exclusion under section 261.4(a)(24). The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy

of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 4. Payments from the Fund. The Trustee shall make payments from the Fund as the Department shall direct, in writing, to provide for the payment of the costs of the performance of activities required under subpart G of R.61-79.264 or 265 for the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Department from the Fund for expenditures for such activities in such amounts as the beneficiary shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or state government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least thirty (30) days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than sixty (60) days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within ninety (90) days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting

the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department, and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Department to the Trustee shall be in writing, signed by the Department, or their designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or Department, except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Department, or by the Trustee and the Department if the Grantor ceases to exist.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of South Carolina

Section 19. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in section 261.151 Appendix A-1 as such regulations were constituted on the date set forth above.

--	--



[Signature of Grantor]		
[Title]		
Attest:		
	[Title]	
	[Seal]	
[Signature of Trustee]		
Attest:		
	[Title]	
	[Seal]	

## **261.151. APPENDIX A-2**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

#### **Certificate of Acknowledgement**

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that they reside at [address], that they are [title] of [corporation], the corporation described in and which executed the above instrument; that they know the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order.

[Signature of Notary Public]

## **261.151. APPENDIX B**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

#### **Financial Guarantee Bond**

Date bond executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: [legal name and business address of owner or operator] \_\_\_\_\_

Type of Organization: [insert "individual," "joint venture," "partnership," or "corporation"] \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Surety(ies): [name(s) and business address(es)] \_\_\_\_\_

EPA Identification Number, name, address, and amount(s) for each facility guaranteed by this bond: \_\_\_\_\_

Total penal sum of bond: \$ \_\_\_\_\_  
Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents, That we, the Principal and Surety(ies) are firmly bound to the South Carolina Department of Health and Environmental Control, hereafter referred to as the "Department," in the event that the hazardous secondary materials at the reclamation or intermediate facility listed below no longer meet the conditions of the exclusion under section 261.4(a)(24), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under the South Carolina Hazardous Waste Management Regulation to have a permit or interim status in order to own or operate each facility identified above, or to meet conditions under section 261.4(a)(24),

WHEREAS said Principal is required to provide financial assurance as a condition of the permit or interim status or as a condition of an exclusion under R.61-79.261.4(a)(24),

WHEREAS said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance,

NOW, THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall satisfy all the conditions established for exclusion of hazardous secondary materials from coverage as solid waste under section 261.4(a)(24),

OR, if the Principal shall fund the standby trust fund in such amount(s) within fifteen (15) days after a final order to begin closure is issued by the Department or a U.S. district court or other court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance, as specified in subpart H of R.61-79.261, as applicable, and obtain the Department 's written approval of such assurance, within ninety (90) days after the date notice of cancellation is received by both the Principal and the Department from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Department that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Department.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Department, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the Principal and the Department, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Department.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new amount, provided that the penal sum does not increase by more than twenty (20) percent in any one year, and no decrease in the penal sum takes place without the written permission of the Department.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in section 261.151 Appendix B as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of incorporation: \_\_\_\_\_

Liability limit: \$ \_\_\_\_\_

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ \_\_\_\_\_

### **261.151. APPENDIX C**

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU  
OF LAND AND WASTE MANAGEMENT

Irrevocable Standby Letter of Credit

Chief

Bureau of Land and Waste Management

2600 Bull Street

Columbia, SC, 29021

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, in the event that the hazardous secondary materials at the covered reclamation or intermediary facility(ies) no longer meet the conditions of the exclusion under section 261.4(a)(24), at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No. \_\_\_\_\_, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the South Carolina Hazardous Waste Management Act."

This letter of credit is effective as of [date] and shall expire on [date at least one (1) year later], but such expiration date shall be automatically extended for a period of [at least one (1) year] on [date] and on each successive expiration date, unless, at least one hundred twenty (120) days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty (120) days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in section 261.151 Appendix C as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

## **261.151. APPENDIX D**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

#### **Certificate of Insurance**

Name and Address of Insurer (herein called the "Insurer"):

Name and Address of Insured (herein called the "Insured"):

Facilities Covered: [List for each facility: The EPA Identification Number (if any issued), name, address, and the amount of insurance for all facilities covered, which must total the face amount shown below.

Face Amount:

Policy Number: \_\_\_\_\_

Effective Date:

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance so that in accordance with applicable regulations all hazardous secondary

materials can be removed from the facility or any unit at the facility, and the facility or any unit at the facility can be decontaminated at the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of section 261.143(d) as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the Department, the Insurer agrees to furnish to the Department a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in section 261.151 Appendix D as such regulations were constituted on the date shown immediately below.

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: \_\_\_\_\_

[Date]

## **261.151. APPENDIX E**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

Letter from Chief Financial Officer

Chief

Bureau of Land and Waste Management

2600 Bull Street

Columbia, SC 29201

Dear Sir or Madam: I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in subpart H of R.61-79.261.

[Fill out the following nine paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number (if any issued), name, address, and current cost estimates.]

1. This firm is the owner or operator of the following facilities for which financial assurance is demonstrated through the financial test specified in subpart H of R.61-79.261. The current cost estimates covered by the test are shown for each facility: \_\_\_\_\_.

2. This firm guarantees, through the guarantee specified in subpart H of R.61-79.261, the following facilities owned or operated by the guaranteed party. The current cost estimates so guaranteed are shown for each facility: \_\_\_\_\_. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter].

3. In states outside of South Carolina, where the Department is not administering the financial requirements of subpart H of R.61-79.261, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in subpart H of R.61-79.261. The current cost estimates covered by such a test are shown for each facility:\_\_\_\_\_.

4. This firm is the owner or operator of the following hazardous secondary materials management facilities for which financial assurance is not demonstrated to the Department through the financial test or any other financial assurance mechanism specified in subpart H of R.61-79.261 or equivalent or substantially equivalent state mechanisms. The current cost estimates not covered by such financial assurance are shown for each facility:\_\_\_\_\_.

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR part 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:\_\_\_\_\_.

6. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in subpart H of R.61-79.264 and 265. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:\_\_\_\_\_.

7. This firm guarantees, through the guarantee specified in subpart H of R.61-79.264 and 265, the closure or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:\_\_\_\_\_.  
The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_\_]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter].

8. In states outside of South Carolina, where the Department is not administering the financial requirements of subpart H of R.61-79.264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in subpart H of R.61-79.264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:\_\_\_\_\_.

9. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated to the Department through the financial test or any other financial assurance mechanism specified in subpart H of R.61-79.264 and 265 or equivalent or substantially equivalent state mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:\_\_\_\_\_.

This firm [insert “is required” or “is not required”] to file a Form 10K with the U.S. Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm’s independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of paragraph (e)(1)(i) of section 261.143 are used. Fill in Alternative II if the criteria of paragraph (e)(1)(ii) of section 261.143(e) are used.]

#### ALTERNATIVE I

	<u>1.</u>	Sum of current cost estimates [total of all cost estimates shown in the nine paragraphs above]	\$ _____
*	<u>2.</u>	Total liabilities [if any portion of the cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4]	\$ _____
*	<u>3.</u>	Tangible net worth	\$ _____
*	<u>4.</u>	Net worth	\$ _____
*	<u>5.</u>	Current assets	\$ _____
*	<u>6.</u>	Current liabilities	\$ _____
	<u>7.</u>	Net working capital [line 5 minus line 6]	\$ _____
*	<u>8.</u>	The sum of net income plus depreciation, depletion, and amortization	\$ _____
*	<u>9.</u>	Total assets in U.S. (required only if less than ninety (90) percent of firm's assets are located in the U.S.)	\$ _____
	<u>10.</u>	Is line 3 at least \$10 million?	Yes/No
	<u>11.</u>	Is line 3 at least 6 times line 1?	Yes/No
	<u>12.</u>	Is line 7 at least 6 times line 1?	Yes/No
*	<u>13.</u>	Are at least ninety (90) percent of firm's assets located in the U.S.? If not, complete line 14	Yes/No
	<u>14.</u>	Is line 9 at least 6 times line 1?	Yes/No
	<u>15.</u>	Is line 2 divided by line 4 less than 2.0?	Yes/No
	<u>16.</u>	Is line 8 divided by line 2 greater than 0.1?	Yes/No
	<u>17.</u>	Is line 5 divided by line 6 greater than 1.5?	Yes/No

#### ALTERNATIVE II

	<u>1.</u>	Sum of current cost estimates [total of all cost estimates shown in the eight paragraphs above]	\$ _____
	<u>2.</u>	Current bond rating of most recent issuance of this firm and name of rating service	
	<u>3.</u>	Date of issuance of bond	
	<u>4.</u>	Date of maturity of bond	
*	<u>5.</u>	Tangible net worth [if any portion of the cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line]	\$ _____
*	<u>6.</u>	Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)	\$ _____
	<u>7.</u>	Is line 5 at least \$10 million?	Yes/No
	<u>8.</u>	Is line 5 at least 6 times line 1?	Yes/No

* 9.	Are at least 90% of firm's assets located in the U.S.? If not, complete line 10	Yes/No
10.	Is line 6 at least 6 times line 1?	Yes/No

I hereby certify that the wording of this letter is identical to the wording specified in section 261.151 Appendix E as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

## **261.151. APPENDIX F**

Letter from Chief Financial Officer

Chief

Bureau of Land and Waste Management

2600 Bull Street

Columbia, SC 29201

Dear Sir or Madam: I am the chief financial officer of [firm's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage under section 261.147 [insert "and costs assured section 261.143(e)" if applicable] as specified in subpart H of R.61-79.261.

[Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number (if any issued), name, and address].

The firm identified above is the owner or operator of the following facilities for which liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences is being demonstrated through the financial test specified in subpart H of R.61-79.261: \_\_\_\_\_

The firm identified above guarantees, through the guarantee specified in subpart H of R.61-79.261, liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences at the following facilities owned or operated by the following: \_\_\_\_\_. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee - \_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

The firm identified above is the owner or operator of the following facilities for which liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences is being demonstrated through the financial test specified in subpart H of R.61-79.264 and 265: \_\_\_\_\_

The firm identified above guarantees, through the guarantee specified in subpart H of R.61-79.264 and 265, liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences at the following facilities owned or operated by the following: \_\_\_\_\_. The firm identified above is



[insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_].  
[Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

[If you are using the financial test to demonstrate coverage of both liability and costs assured under section 261.143(e) or closure or post-closure care costs under sections 264.143, 264.145, 265.143, or 265.145, fill in the following nine paragraphs regarding facilities and associated cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA identification number (if any issued), name, address, and current cost estimates.]

1. This firm is the owner or operator of the following facilities for which financial assurance is demonstrated through the financial test specified in subpart H of R.61-79.261. The current cost estimates covered by the test are shown for each facility: \_\_\_\_.

2. This firm guarantees, through the guarantee specified in subpart H of R.61-79.261, the following facilities owned or operated by the guaranteed party. The current cost estimates so guaranteed are shown for each facility: \_\_\_\_. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

3. In states outside of South Carolina, where the Department is not administering the financial requirements of subpart H of R.61-79.261, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in subpart H of R.61-79.261. The current cost estimates covered by such a test are shown for each facility: \_\_\_\_.

4. This firm is the owner or operator of the following hazardous secondary materials management facilities for which financial assurance is not demonstrated to the Department through the financial test or any other financial assurance mechanism specified in subpart H of R.61-79.261 or equivalent or substantially equivalent state mechanisms. The current cost estimates not covered by such financial assurance are shown for each facility: \_\_\_\_.

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR part 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility: \_\_\_\_.

6. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in subpart H of R.61-79.264 and 265. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: \_\_\_\_.

7. This firm guarantees, through the guarantee specified in subpart H of R.61-79.264 and 265, the closure or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: \_\_\_\_. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the

owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_\_].

[Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

8. In states outside of South Carolina, where the Department is not administering the financial requirements of subpart H of R.61-79.264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in subpart H of R.61-79.264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:\_\_\_\_\_.

9. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated to the Department through the financial test or any other financial assurance mechanism specified in subpart H of R.61-79.264 and 265 or equivalent or substantially equivalent state mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:\_\_\_\_\_.

This firm [insert “is required” or “is not required”] to file a Form 10K with the U.S. Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm’s independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

#### Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of section 261.147 are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of section 261.147 are used.]

#### ALTERNATIVE I

	<u>1.</u>	Amount of annual aggregate liability coverage to be demonstrated	\$_____
*	<u>2.</u>	Current assets	\$_____
*	<u>3.</u>	Current liabilities	\$_____
	<u>4.</u>	Net working capital (line 2 minus line 3)	\$_____
*	<u>5.</u>	Tangible net worth	\$_____
*	<u>6.</u>	If less than ninety (90) percent of assets are located in the U.S., give total U.S. assets	\$_____
	<u>7.</u>	Is line 5 at least ten (10) million dollars?	Yes/No
	<u>8.</u>	Is line 4 at least six (6) times line 1?	Yes/No
	<u>9.</u>	Is line 5 at least six (6) times line 1?	Yes/No
*	<u>10.</u>	Are at least ninety (90) percent of assets located in the U.S.? If not, complete line 11	Yes/No
	<u>11.</u>	Is line 6 at least six (6) times line 1?	Yes/No

## ALTERNATIVE II

	<u>1.</u>	<u>Amount of annual aggregate liability coverage to be demonstrated</u>	<u>\$</u> _____
	<u>2.</u>	<u>Current bond rating of most recent issuance and name of rating service</u>	
	<u>3.</u>	<u>Date of issuance of bond</u>	
	<u>4.</u>	<u>Date of maturity of bond</u>	
	<u>5.</u>	<u>Tangible net worth</u>	<u>\$</u> _____
	<u>6.</u>	<u>Total assets in U.S. (required only if less than ninety (90) percent of assets are located in the U.S.)</u>	<u>\$</u> _____
	<u>7.</u>	<u>Is line 5 at least ten (10) million dollars?</u>	<u>Yes/No</u>
	<u>8.</u>	<u>Is line 5 at least six (6) times line 1?</u>	<u>Yes/No</u>
	<u>9.</u>	<u>Are at least ninety (90) percent of assets located in the U.S.? If not, complete line 10.</u>	<u>Yes/No</u>
	<u>10.</u>	<u>Is line 6 at least six (6) times line 1?</u>	<u>Yes/No</u>

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and costs assured under section 261.143(e) or closure or post-closure care costs under sections 264.143, 264.145, 265.143, or 265.145.]

### Part B. Facility Care and Liability Coverage

[Fill in Alternative I if the criteria of paragraphs (e)(1)(i) of section 261.143 and (f)(1)(i) of section 261.147 are used. Fill in Alternative II if the criteria of paragraphs (e)(1)(ii) of section 261.143 and (f)(1)(ii) of section 261.147 are used.]

## ALTERNATIVE I

	<u>1.</u>	<u>Sum of current cost estimates (total of all cost estimates listed above)</u>	<u>\$</u> _____
	<u>2.</u>	<u>Amount of annual aggregate liability coverage to be demonstrated</u>	<u>\$</u> _____
	<u>3.</u>	<u>Sum of lines 1 and 2</u>	<u>\$</u> _____
*	<u>4.</u>	<u>Total liabilities (if any portion of your cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6)</u>	<u>\$</u> _____
*	<u>5.</u>	<u>Tangible net worth</u>	<u>\$</u> _____
*	<u>6.</u>	<u>Net worth</u>	<u>\$</u> _____
*	<u>7.</u>	<u>Current assets</u>	<u>\$</u> _____
*	<u>8.</u>	<u>Current liabilities</u>	<u>\$</u> _____
	<u>9.</u>	<u>Net working capital (line 7 minus line 8)</u>	<u>\$</u> _____
*	<u>10.</u>	<u>The sum of net income plus depreciation, depletion, and amortization</u>	<u>\$</u> _____
*	<u>11.</u>	<u>Total assets in U.S. (required only if less than ninety (90) percent of assets are located in the U.S.)</u>	<u>\$</u> _____
	<u>12.</u>	<u>Is line 5 at least ten (10) million dollars?</u>	<u>Yes/No</u>
	<u>13.</u>	<u>Is line 5 at least six (6) times line 3?</u>	<u>Yes/No</u>
	<u>14.</u>	<u>Is line 9 at least six (6) times line 3?</u>	<u>Yes/No</u>

* _	<u>15.</u>	<u>Are at least ninety (90) percent of assets located in the U.S.? If not, complete line 16.</u>	<u>Yes/No</u>
	<u>16.</u>	<u>Is line 11 at least six (6) times line 3?</u>	<u>Yes/No</u>
	<u>17.</u>	<u>Is line 4 divided by line 6 less than 2.0?</u>	<u>Yes/No</u>
	<u>18.</u>	<u>Is line 10 divided by line 4 greater than 0.1?</u>	<u>Yes/No</u>
	<u>19.</u>	<u>Is line 7 divided by line 8 greater than 1.5?</u>	<u>Yes/No</u>

## ALTERNATIVE II

	<u>1.</u>	<u>Sum of current cost estimates (total of all cost estimates listed above)</u>	<u>\$ _____</u>
	<u>2.</u>	<u>Amount of annual aggregate liability coverage to be demonstrated</u>	<u>\$ _____</u>
	<u>3.</u>	<u>Sum of lines 1 and 2</u>	<u>\$ _____</u>
	<u>4.</u>	<u>Current bond rating of most recent issuance and name of rating service</u>	
	<u>5.</u>	<u>Date of issuance of bond</u>	
	<u>6.</u>	<u>Date of maturity of bond</u>	
* _	<u>7.</u>	<u>Tangible net worth (if any portion of the cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line)</u>	<u>\$ _____</u>
* _	<u>8.</u>	<u>Total assets in the U.S. (required only if less than ninety (90) percent of assets are located in the U.S.)</u>	<u>\$ _____</u>
	<u>9.</u>	<u>Is line 7 at least ten (10) million dollars?</u>	<u>Yes/No</u>
	<u>10.</u>	<u>Is line 7 at least six (6) times line 3?</u>	<u>Yes/No</u>
* _	<u>11.</u>	<u>Are at least ninety (90) percent of assets located in the U.S.? If not complete line 12.</u>	<u>Yes/No</u>
	<u>12.</u>	<u>Is line 8 at least six (6) times line 3?</u>	<u>Yes/No</u>

I hereby certify that the wording of this letter is identical to the wording specified in sections 261.151 Appendix F as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

## **261.151. APPENDIX G-1**

### SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT

#### Corporate Guarantee for Facility Care

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of South Carolina, herein referred to as guarantor. This guarantee is made on behalf of the [owner or operator] of [business address], which is [one of the following: "our subsidiary"; "a subsidiary of [name and address of common parent corporation], of which guarantor is a subsidiary"; or "an entity with which guarantor has a substantial business relationship, as defined in sections 264.141(h) and 265.141(h)" to the South Carolina Department of Health and Environmental Control, hereafter referred to as the "Department."

## Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in section 261.143(e).

2. [Owner or operator] owns or operates the following facility(ies) covered by this guarantee: [List for each facility: EPA Identification Number (if any issued), name, and address.]

3. “Closure plans” as used below refer to the plans maintained as required by subpart H of R.61-79.261 for the care of facilities as identified above.

4. For value received from [owner or operator], guarantor guarantees that in the event of a determination by the Department that the hazardous secondary materials at the owner or operator’s facility covered by this guarantee do not meet the conditions of the exclusion under section 261.4(a)(24), the guarantor will dispose of any hazardous secondary material as hazardous waste, and close the facility in accordance with closure requirements found in R.61-79.264 or 265 of this chapter, as applicable, or establish a trust fund as specified in section 261.143(a) in the name of the owner or operator in the amount of the current cost estimate.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within ninety (90) days, by certified mail, notice to the Department and to [owner or operator] that they intend to provide alternate financial assurance as specified in subpart H of R.61-79.261, as applicable, in the name of [owner or operator]. Within one hundred twenty (120) days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the Department by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

7. Guarantor agrees that within thirty (30) days after being notified by the Department of a determination that guarantor no longer meets the financial test criteria or that they are disallowed from continuing as a guarantor, they shall establish alternate financial assurance as specified in of R.61-79.264, 265, or subpart H of R.61-79.261, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure plan, the extension or reduction of the time of performance, or any other modification or alteration of an obligation of the owner or operator pursuant to R.61-79.264, 265, or subpart H of R.61-79.261.

9. Guarantor agrees to remain bound under this guarantee for as long as [owner or operator] must comply with the applicable financial assurance requirements of R.61-79.264 and 265 or the financial assurance condition of section 261.4(a)(24)(vi)(F) for the above-listed facilities, except as provided in paragraph 10 of this agreement.

10. [Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator]:

Guarantor may terminate this guarantee by sending notice by certified mail to the Department and to [owner or operator], provided that this guarantee may not be terminated unless and until [the owner or operator] obtains, and the Department approves, alternate coverage complying with section 261.143.

[Insert the following language if the guarantor is a firm qualifying as a guarantor due to its “substantial business relationship” with the owner or operator]:

Guarantor may terminate this guarantee one hundred twenty (120) days following the receipt of notification, through certified mail, by the Department and by [the owner or operator].

11. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in R.61-79.264, 265, or subpart H of R.61-79.261, as applicable, and obtain written approval of such assurance from the Department within ninety (90) days after a notice of cancellation by the guarantor is received by the Department from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

12. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the applicable requirements of R.61-79.264, 265, or subpart H of R.61-79.261.

I hereby certify that the wording of this guarantee is identical to the wording specified in section 261.151 Appendix G-1 as such regulations were constituted on the date first above written.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

## **261.151. APPENDIX G-2**

### **Guarantee for Liability Coverage**

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of South Carolina, herein referred to as guarantor. This guarantee is made on behalf of [owner or operator] of [business address], which is one of the following: “our subsidiary”; “a subsidiary of [name and address of common parent corporation], of which guarantor is a subsidiary”; or “an entity with which guarantor has a substantial business relationship, as defined in R.61-79 [either 264.141(h) or 265.141(h)],” to any and all third parties who have sustained or may sustain bodily injury or property damage caused by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee.

### **Recitals**

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in section 261.147(g).

2. [Owner or operator] owns or operates the following facility(ies) covered by this guarantee: [List for each facility: EPA Identification Number (if any issued), name, and address; and if guarantor is incorporated

outside the United States list the name and address of the guarantor's registered agent in each state.] This corporate guarantee satisfies RCRA third-party liability requirements for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences in above-named owner or operator facilities for coverage in the amount of [insert dollar amount] for each occurrence and [insert dollar amount] annual aggregate.

3. For value received from [owner or operator], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by [sudden and/or nonsudden] accidental occurrences arising from operations of the facility(ies) covered by this guarantee that in the event that [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [sudden and/or nonsudden] accidental occurrences, arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage identified above.

4. Such obligation does not apply to any of the following:

(a) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert owner or operator] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator]; or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert owner or operator]. This exclusion applies:

(A) Whether [insert owner or operator] may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by [insert owner or operator];

(2) Premises that are sold, given away, or abandoned by [insert owner or operator] if the property damage arises out of any part of those premises;

(3) Property loaned to [insert owner or operator];

(4) Personal property in the care, custody, or control of [insert owner or operator];

(5) That particular part of real property on which [insert owner or operator] or any contractors or subcontractors working directly or indirectly on behalf of [insert owner or operator] are performing operations, if the property damage arises out of these operations.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within ninety (90) days, by certified mail, notice to the Department and to [owner or operator] that they intend to provide alternate liability coverage as specified in R.61-79.261.147, as applicable, in the name of [owner or operator]. Within one hundred twenty (120) days after the end of such fiscal year, the guarantor shall establish such liability coverage unless [owner or operator] has done so.

6. The guarantor agrees to notify the Department by certified mail of a voluntary or involuntary proceeding under title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding. Guarantor agrees that within thirty (30) days after being notified by the Department of a determination that guarantor no longer meets the financial test criteria or that they are disallowed from continuing as a guarantor, they shall establish alternate liability coverage as specified in R.61-79.261.147 in the name of [owner or operator], unless [owner or operator] has done so.

7. Guarantor reserves the right to modify this agreement to take into account amendment or modification of the liability requirements set by R.61-79.261.147, provided that such modification shall become effective only if the Department does not disapprove the modification within thirty (30) days of receipt of notification of the modification.

8. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable requirements of R.61-79.261.147 for the above-listed facility(ies), except as provided in paragraph 10 of this agreement.

9. [Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator]:

Guarantor may terminate this guarantee by sending notice by certified mail to the Department and to [owner or operator], provided that this guarantee may not be terminated unless and until [the owner or operator] obtains, and the Department approve, alternate liability coverage complying with R.61-79.261.147.

[Insert the following language if the guarantor is a firm qualifying as a guarantor due to its “substantial business relationship” with the owner or operator]:

Guarantor may terminate this guarantee one hundred twenty (120) days following receipt of notification, through certified mail, by the Department and by [the owner or operator].

11. Guarantor hereby expressly waives notice of acceptance of this guarantee by any party.

12. Guarantor agrees that this guarantee is in addition to and does not affect any other responsibility or liability of the guarantor with respect to the covered facilities.

13. The Guarantor shall satisfy a third-party liability claim only on receipt of one of the following documents:



(a) Certification from the Principal and the third-party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as parties [insert Principal] and [insert name and address of third-party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Principal's] facility should be paid in the amount of \$[insert amount].

[Signatures]

Principal

(Notary) Date

[Signatures]

Claimant(s)

(Notary) Date

(b) A valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Principal's facility or group of facilities.

14. In the event of combination of this guarantee with another mechanism to meet liability requirements, this guarantee will be considered [insert "primary" or "excess"] coverage.

I hereby certify that the wording of the guarantee is identical to the wording specified in section 261.151 Appendix G-2 as such regulations were constituted on the date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**261.151. APPENDIX H**

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU  
OF LAND AND WASTE MANAGEMENT**

**Hazardous Secondary Material Reclamation/Intermediate Facility Liability Endorsement**

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under section 261.147. The coverage applies at [list EPA Identification Number (if any issued), name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy to which this endorsement is attached.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in section 261.147(f).

(c) Whenever requested by the Department, the Insurer agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

(d) Cancellation of this endorsement, whether by the Insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the facility, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Department.

(e) Any other termination of this endorsement will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Department.

Attached to and forming part of policy No. \_\_\_\_\_ issued by [name of Insurer], herein called the Insurer, of [address of Insurer] to [name of insured] of [address] this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The effective date of said policy is \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify that the wording of this endorsement is identical to the wording specified in section 261.151 Appendix H as such regulation was constituted on the date set forth above, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[Signature of Authorized Representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer]

[Address of Representative]

## **261.151. APPENDIX I**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

#### **Hazardous Secondary Material Reclamation/Intermediate Facility Certificate of Liability Insurance**

1. [Name of Insurer], (the “Insurer”), of [address of Insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured], (the “insured”), of [address of insured] in connection with the insured’s obligation to demonstrate financial responsibility under R.61-79.264, 265, and the financial assurance condition of section 261.4(a)(24)(vi)(F). The coverage applies at [list EPA Identification Number (if any issued), name, and address for each facility] for [insert

“sudden accidental occurrences,” “nonsudden accidental occurrences,” or “sudden and nonsudden accidental occurrences”; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the “each occurrence” and “annual aggregate” limits of the Insurer’s liability], exclusive of legal defense costs. The coverage is provided under policy number, issued on [date]. The effective date of said policy is [date].

2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in section 261.147.

(c) Whenever requested by the South Carolina Department of Health and Environmental Control, hereafter referred to as the “Department,” the Insurer agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

(d) Cancellation of the insurance, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the hazardous waste management facility, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Department.

(e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Department.

I hereby certify that the wording of this instrument is identical to the wording specified in section 261.151 Appendix I as such regulation was constituted on the date set forth above, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer]

[Address of Representative]

**261.151. APPENDIX J**

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

**Irrevocable Standby Letter of Credit**

**Chief**

**Bureau of Land and Waste Management**

**2600 Bull Street**

Columbia, SC 29201

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in the favor of [“any and all third-party liability claimants” or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator’s name and address] for third-party liability awards or settlements up to [in words] U.S. dollars \$ \_\_\_\_\_ per occurrence and the annual aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [in words] U.S. dollars \$ \_\_\_\_\_ ----- per occurrence, and the annual aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_, for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this letter of credit No. \_\_\_\_\_, and [insert the following language if the letter of credit is being used without a standby trust fund: (1) a signed certificate reading as follows]:

Certificate of Valid Claim

The undersigned, as parties [insert principal] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operations of [principal’s] facility should be paid in the amount of \$[insert amount]. We hereby certify that the claim does not apply to any of the following:

(a) Bodily injury or property damage for which [insert principal] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert principal] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert principal] under a workers’ compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of [insert principal] arising from, and in the course of, employment by [insert principal]; or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert principal].

This exclusion applies:

(A) Whether [insert principal] may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by [insert principal];

(2) Premises that are sold, given away, or abandoned by [insert principal] if the property damage arises out of any part of those premises;

(3) Property loaned to [insert principal];

(4) Personal property in the care, custody, or control of [insert principal];

(5) That particular part of real property on which [insert principal] or any contractors or subcontractors working directly or indirectly on behalf of [insert principal] are performing operations, if the property damage arises out of these operations.

[Signatures]

Grantor

[Signatures]

Claimant(s)

or (2) a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.]

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date and on each successive expiration date, unless, at least one hundred twenty (120) days before the current expiration date, we notify you, the Department, and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

[Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage]."

We certify that the wording of this letter of credit is identical to the wording specified in section 261.151 Appendix J as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date].

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

## **261.151. APPENDIX K**

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU  
OF LAND AND WASTE MANAGEMENT**

**Payment Bond**

**Surety Bond No. [Insert number]**

Parties [Insert name and address of owner or operator], Principal, incorporated in [Insert state of incorporation] of [Insert city and state of principal place of business] and [Insert name and address of surety company(ies)], Surety Company(ies), of [Insert surety(ies) place of business].

<u>EPA Identification Number (if any issued), name, and address for each facility guaranteed by this bond:</u>	
<u>Sudden accidental occurrences</u>	<u>Nonsudden accidental occurrences</u>
<u>Penal Sum Per Occurrence</u>	<u>[insert amount] [insert amount]</u>
<u>Annual Aggregate</u>	<u>[insert amount] [insert amount]</u>

Purpose: This is an agreement between the Surety(ies) and the Principal under which the Surety(ies), its(their) successors and assignees, agree to be responsible for the payment of claims against the Principal for bodily injury and/or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental occurrences arising from operations of the facility or group of facilities in the sums prescribed herein; subject to the governing provisions and the following conditions.

Governing Provisions:

(1) SC Hazardous Waste Management Act 44-56 et seq. and section 3004 of the Resource Conservation and Recovery Act of 1976, as amended.

(2) Rules and regulations of the U.S. Environmental Protection Agency (EPA), particularly 40 CFR parts 264, 265, and subpart H of 40 CFR part 261 (if applicable).

(3) Rules and regulations of the South Carolina Department of Health and Environmental Control, particularly R.61-79.264, 265, and subpart H of R.61-79.261.

Conditions:

(1) The Principal is subject to the applicable governing provisions that require the Principal to have and maintain liability coverage for bodily injury and property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental occurrences arising from operations of the facility or group of facilities. Such obligation does not apply to any of the following:

(a) Bodily injury or property damage for which [insert Principal] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert Principal] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert Principal] under a workers' compensation, disability benefits, or unemployment compensation law or similar law.

(c) Bodily injury to:

(1) An employee of [insert Principal] arising from, and in the course of, employment by [insert principal]; or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert Principal]. This exclusion applies:

(A) Whether [insert Principal] may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by [insert Principal];

(2) Premises that are sold, given away, or abandoned by [insert Principal] if the property damage arises out of any part of those premises;

(3) Property loaned to [insert Principal];

(4) Personal property in the care, custody, or control of [insert Principal];

(5) That particular part of real property on which [insert Principal] or any contractors or subcontractors working directly or indirectly on behalf of [insert Principal] are performing operations, if the property damage arises out of these operations.

(2) This bond assures that the Principal will satisfy valid third party liability claims, as described in condition 1.

(3) If the Principal fails to satisfy a valid third party liability claim, as described above, the Surety(ies) becomes liable on this bond obligation.

(4) The Surety(ies) shall satisfy a third party liability claim only upon the receipt of one of the following documents:

(a) Certification from the Principal and the third party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### Certification of Valid Claim

The undersigned, as parties [insert name of Principal] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Principal's] facility should be paid in the amount of \$[insert amount].

[Signature]

Principal

[Notary] Date

[Signature(s)]

Claimant(s)

[Notary] Date

or (b) A valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Principal's facility or group of facilities.

(5) In the event of combination of this bond with another mechanism for liability coverage, this bond will be considered [insert "primary" or "excess"] coverage.

(6) The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum, provided that the Surety(ies) furnish(es) notice to the Department forthwith of all claims filed and payments made by the Surety(ies) under this bond.

(7) The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and the Department, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by the Principal and the Department, as evidenced by the return receipt.

(8) The Principal may terminate this bond by sending written notice to the Surety(ies) and to the Department.

(9) The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.

(10) This bond is effective from [insert date] (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described above.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in section 261.151 Appendix K, as such regulations were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY[IES]

[Name and address]

State of incorporation:

Liability Limit: \$

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]



Bond premium: \$

## **261.151. APPENDIX L-1**

### **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF LAND AND WASTE MANAGEMENT**

#### **Trust Agreement**

Trust Agreement, the “Agreement,” entered into as of [date] by and between [name of the owner or operator] a [name of state] [insert “corporation,” “partnership,” “association,” or “proprietorship”], the “Grantor,” and [name of corporate trustee], [insert, “incorporated in the state of \_\_\_\_\_” or “a national bank”], the “trustee.”

WHEREAS, the South Carolina Department of Health and Environmental Control, hereafter referred to as the “Department,” an agency of South Carolina, has established certain regulations applicable to the Grantor, requiring that an owner or operator must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

WHEREAS, the Grantor has elected to establish a trust to assure all or part of such financial responsibility for the facilities identified herein.

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

#### **Section 1. Definitions. As used in this Agreement:**

(a) The term “Grantor” means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term “Trustee” means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities. This agreement pertains to the facilities identified on attached schedule A [on schedule A, for each facility list the EPA Identification Number (if any issued), name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, hereinafter the “Fund,” for the benefit of any and all third parties injured or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_-[up to \$1 million] per occurrence and [up to \$2 million] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [up to \$3 million] per occurrence and \_\_\_\_\_-[up to \$6 million] annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which [insert Grantor] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert Grantor] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert Grantor] under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert Grantor]. This exclusion applies:

(A) Whether [insert Grantor] may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by [insert Grantor];

(2) Premises that are sold, given away, or abandoned by [insert Grantor] if the property damage arises out of any part of those premises;

(3) Property loaned to [insert Grantor];

(4) Personal property in the care, custody, or control of [insert Grantor];

(5) That particular part of real property on which [insert Grantor] or any contractors or subcontractors working directly or indirectly on behalf of [insert Grantor] are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the Fund shall be considered [insert "primary" or "excess"] coverage.

The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by making payments from the Fund only upon receipt of one of the following documents;

(a) Certification from the Grantor and the third party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as parties [insert Grantor] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Grantor's] facility or group of facilities should be paid in the amount of \$[insert amount].

[Signatures]

Grantor

[Signatures]

Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are securities or other obligations of the federal or a state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be created, managed, underwritten, or to which

investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuations. The Trustee shall annually, at least thirty (30) days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate Department a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than sixty (60) days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within ninety (90) days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department, and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Department to the Trustee shall be in writing, signed by the Department, or their designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

Section 15. Notice of Nonpayment. If a payment for bodily injury or property damage is made under Section 4 of this trust, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) days. The Grantor shall, on or before the anniversary date of the establishment of the Fund following such notice, either make payments to the Trustee in amounts sufficient to cause the trust to return to its value immediately prior to the payment of claims under Section 4, or shall provide written proof to the Trustee that other financial assurance for liability coverage has been obtained equaling the amount necessary to return the trust to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall within 10 (ten) working days after the anniversary date of the establishment of the Fund provide a written notice of nonpayment to the Department.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate Department, or by the Trustee and the appropriate Department if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

The Department will agree to termination of the Trust when the owner or operator substitutes alternate financial assurance as specified in this section.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of South Carolina.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date set forth above. The parties below certify that the wording of this Agreement is identical to the wording specified in R.61-79.261.151 Appendix L as such regulations were constituted on the date set forth above.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

## **261.151. APPENDIX L-2**

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU  
OF LAND AND WASTE MANAGEMENT

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that they reside at [address], that they are [title] of [corporation], the corporation described in and which executed the above instrument; that they know the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order.

[Signature of Notary Public]

## **261.151. APPENDIX M-1**

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU  
OF LAND AND WASTE MANAGEMENT

## Standby Trust Agreement

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator] a [name of a state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert, "incorporated in [name of state] or "a national bank"], the "trustee."

WHEREAS the South Carolina Department of Health and Environmental Control, hereafter referred to as the "Department," an agency of South Carolina, has established certain regulations applicable to the Grantor, requiring that an owner or operator must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

WHEREAS, the Grantor has elected to establish a standby trust into which the proceeds from a letter of credit may be deposited to assure all or part of such financial responsibility for the facilities identified herein.

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term Grantor means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term Trustee means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities. This Agreement pertains to the facilities identified on attached schedule A [on schedule A, for each facility list the EPA Identification Number (if any issued), name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_-[up to \$1 million] per occurrence and \_\_\_\_-[up to \$2 million] annual aggregate for sudden accidental occurrences and \_\_\_\_-[up to \$3 million] per occurrence and \_\_\_\_-[up to \$6 million] annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which [insert Grantor] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert Grantor] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert Grantor] under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert Grantor].

This exclusion applies:

(A) Whether [insert Grantor] may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by [insert Grantor];

(2) Premises that are sold, given away, or abandoned by [insert Grantor] if the property damage arises out of any part of those premises;

(3) Property loaned by [insert Grantor];

(4) Personal property in the care, custody, or control of [insert Grantor];

(5) That particular part of real property on which [insert Grantor] or any contractors or subcontractors working directly or indirectly on behalf of [insert Grantor] are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the Fund shall be considered [insert “primary” or “excess”] coverage.

The Fund is established initially as consisting of the proceeds of the letter of credit deposited into the Fund. Such proceeds and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by drawing on the letter of credit described in Schedule B and by making payments from the Fund only upon receipt of one of the following documents:

(a) Certification from the Grantor and the third party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:



### Certification of Valid Claim

The undersigned, as parties [insert Grantor] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Grantor's] facility should be paid in the amount of \$[insert amount]

[Signature]

Grantor

[Signatures]

Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in accordance with the requirements of section 261.151(k) and Section 4 of this Agreement.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or a state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements to the Trustee shall be paid from the Fund.

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department, and the present Trustee by certified mail ten (10) days before

such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 13. Instructions to the Trustee. All orders, requests, certifications of valid claims, and instructions to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Department, except as provided for herein.

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Department, or by the Trustee and the Department if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be paid to the Grantor.

The Department will agree to termination of the Trust when the owner or operator substitutes alternative financial assurance as specified in this section.

Section 16. Immunity and indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of South Carolina.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation of the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date set forth above. The parties below certify that the wording of this Agreement is identical to the wording specified in section 261.151 Appendix M as such regulations were constituted on the date set forth above.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:  
[Title]  
[Seal]

## **261.151. APPENDIX M-2**

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that they reside at [address], that they are [title] of [corporation], the corporation described in and which executed the above instrument; that they know the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order.

[Signature of Notary Public]

**Add 61-79.261 Subpart I to read:**

### **Subpart I: Use and Management of Containers**

#### **261.170. Applicability.**

This subpart applies to hazardous secondary materials excluded under the remanufacturing exclusion at section 261.4(a)(27) and stored in containers.

#### **261.171. Condition of containers.**

If a container holding hazardous secondary material is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the hazardous secondary material must be transferred from this container to a container that is in good condition or managed in some other way that complies with the requirements of this part.

#### **261.172. Compatibility of hazardous secondary materials with containers.**

The container must be made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous secondary material to be stored, so that the ability of the container to contain the material is not impaired.

#### **261.173. Management of containers.**

(a) A container holding hazardous secondary material must always be closed during storage, except when it is necessary to add or remove the hazardous secondary material.

(b) A container holding hazardous secondary material must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

#### **261.175. Containment.**

(a) Container storage areas must have a containment system that is designed and operated in accordance with paragraph (b) of this section.

(b) A containment system must be designed and operated as follows:

(1) A base must underlie the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(3) The containment system must have sufficient capacity to contain ten (10) percent of the volume of containers or the volume of the largest container, whichever is greater.

(4) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph (b)(3) of this section to contain any run-on which might enter the system; and

(5) Spilled or leaked material and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

#### **261.176. Special requirements for ignitable or reactive hazardous secondary material.**

Containers holding ignitable or reactive hazardous secondary material must be located at least fifteen (15) meters (50 feet) from the facility's property line.

#### **261.177. Special requirements for incompatible materials.**

(a) Incompatible materials must not be placed in the same container.

(b) Hazardous secondary material must not be placed in an unwashed container that previously held an incompatible material.

(c) A storage container holding a hazardous secondary material that is incompatible with any other materials stored nearby must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

#### **261.179. Air emission standards.**

The remanufacturer or other person that stores or treats the hazardous secondary material shall manage all hazardous secondary material placed in a container in accordance with the applicable requirements of R.61-79.261 subparts AA, BB, and CC.

**Add 61-79.261 Subpart J to read:**

#### **SUBPART J: Tank Systems**

#### **261.190. Applicability.**

(a) The requirements of this subpart apply to tank systems for storing or treating hazardous secondary material excluded under the remanufacturing exclusion at section 261.4(a)(27).

(b) Tank systems, including sumps, as defined in section 260.10, that serve as part of a secondary containment system to collect or contain releases of hazardous secondary materials are exempted from the requirements in section 261.193(a).

#### **261.191. Assessment of existing tank system's integrity.**

(a) Tank systems must meet the secondary containment requirements of section 261.193, or the remanufacturer or other person that handles the hazardous secondary material must determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph (c) of this section, a written assessment reviewed and certified by a qualified Professional Engineer must be kept on file at the remanufacturer's facility or other facility that stores or treats the hazardous secondary material that attests to the tank system's integrity.

(b) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the material(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(1) Design standard(s), if available, according to which the tank and ancillary equipment were constructed;

(2) Hazardous characteristics of the material(s) that have been and will be handled;

(3) Existing corrosion protection measures;

(4) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(5) Results of a leak test, internal inspection, or other tank integrity examination such that:

(i) For non-enterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(ii) For other than non-enterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination that is certified by a qualified Professional Engineer that addresses cracks, leaks, corrosion, and erosion.

Note to paragraph (b)(5)(ii): The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting other than a leak test.

(c) If, as a result of the assessment conducted in accordance with paragraph (a) of this section, a tank system is found to be leaking or unfit for use, the remanufacturer or other person that stores or treats the hazardous secondary material must comply with the requirements of section 261.196.

#### **261.192. [Reserved]**

#### **261.193. Containment and detection of releases.**

(a) Secondary containment systems must be:

(1) Designed, installed, and operated to prevent any migration of materials or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

Note to paragraph (a): If the collected material is a hazardous waste under R.61-79.261, it is subject to management as a hazardous waste in accordance with all applicable requirements of R.61-79.262 through 265, 266, and 268. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR part 302.

(b) To meet the requirements of paragraph (a) of this section, secondary containment systems must be at a minimum:

(1) Constructed of or lined with materials that are compatible with the materials(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the material to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);

(2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous secondary material or accumulated liquid in the secondary containment system at the earliest practicable time; and

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked material and accumulated precipitation must be removed from the secondary containment system within twenty-four (24) hours, or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Secondary containment for tanks must include one (1) or more of the following devices:

(1) A liner (external to the tank);

(2) A vault; or

(3) A double-walled tank.

(d) In addition to the requirements of paragraphs (a), (b), and (c) of this section, secondary containment systems must satisfy the following requirements:

(1) External liner systems must be:

(i) Designed or operated to contain one hundred (100) percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(iii) Free of cracks or gaps; and

(iv) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the material if the material is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the material).

(2) Vault systems must be:

(i) Designed or operated to contain one hundred (100) percent of the capacity of the largest tank within its boundary;

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(iii) Constructed with chemical-resistant water stops in place at all joints (if any);

(iv) Provided with an impermeable interior coating or lining that is compatible with the stored material and that will prevent migration of material into the concrete;

(v) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the material being stored or treated is ignitable or reactive; and

(vi) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(3) Double-walled tanks must be:

(i) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(ii) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(iii) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four (24) hours, or at the earliest practicable time.

Note to paragraph (d)(3): The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.



(e) [Reserved]

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of paragraphs (a) and (b) of this section except for:

(1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

(3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

(4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

#### **261.194. General operating requirements.**

(a) Hazardous secondary materials or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(1) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(2) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The remanufacturer or other person that stores or treats the hazardous secondary material must comply with the requirements of section 261.196 if a leak or spill occurs in the tank system.

#### **261.195. [Reserved]**

#### **261.196. Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.**

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the remanufacturer or other person that stores or treats the hazardous secondary material must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of materials. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately stop the flow of hazardous secondary material

into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of material from tank system or secondary containment system.

(1) If the release was from the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material must, within twenty-four (24) hours after detection of the leak or, if the remanufacturer or other person that stores or treats the hazardous secondary material demonstrates that it is not possible, at the earliest practicable time, remove as much of the material as is necessary to prevent further release of hazardous secondary material to the environment and to allow inspection and repair of the tank system to be performed.

(2) If the material released was to a secondary containment system, all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately conduct a visual inspection of the release and, based upon that inspection:

(1) Prevent further migration of the leak or spill to soils or surface water; and

(2) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(1) Any release to the environment, except as provided in paragraph (d)(2) of this section, must be reported to the Department within twenty-four (24) hours of its detection. If the release has been reported pursuant to 40 CFR part 302, that report will satisfy this requirement.

(2) A leak or spill of hazardous secondary material is exempted from the requirements of this paragraph if it is:

(i) Less than or equal to a quantity of one (1) pound, and

(ii) Immediately contained and cleaned up.

(3) Within thirty (30) days of detection of a release to the environment, a report containing the following information must be submitted to the Department:

(i) Likely route of migration of the release;

(ii) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(iii) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty (30) days, these data must be submitted to the Department as soon as they become available.

(iv) Proximity to downgradient drinking water, surface water, and populated areas; and

(v) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(1) Unless the remanufacturer or other person that stores or treats the hazardous secondary material satisfies the requirements of paragraphs (e)(2) through (4) of this section, the tank system must cease to operate under the remanufacturing exclusion at section 261.4(a)(27).

(2) If the cause of the release was a spill that has not damaged the integrity of the system, the remanufacturer or other person that stores or treats the hazardous secondary material may return the system to service as soon as the released material is removed and repairs, if necessary, are made.

(3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the remanufacturer or other person that stores or treats the hazardous secondary material must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of section 261.193 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of paragraph (f) of this section are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with section 261.193 of this subpart prior to being returned to use.

(f) Certification of major repairs. If the remanufacturer or other person that stores or treats the hazardous secondary material has repaired a tank system in accordance with paragraph (e) of this section, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the remanufacturer or other person that stores or treats the hazardous secondary material has obtained a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous secondary materials without release for the intended life of the system. This certification must be kept on file at the facility and maintained until closure of the facility.

Note 1 to section 261.196: EPA may, on the basis of any information received that there is or has been a release of hazardous secondary material or hazardous constituents into the environment, issue an order under RCRA section 7003(a) requiring corrective action or such other response as deemed necessary to protect human health or the environment.

Note 2 to section 261.196: 40 CFR part 302 may require the owner or operator to notify the National Response Center of certain releases.

**261.197. Termination of remanufacturing exclusion.**

Hazardous secondary material stored in units more than ninety (90) days after the unit ceases to operate under the remanufacturing exclusion at section 261.4(a)(27) or otherwise ceases to be operated for manufacturing, or for storage of a product or a raw material, then becomes subject to regulation as hazardous waste under R.61-79.124, 261 through 266, 268, 270, and 271, as applicable.

**261.198. Special requirements for ignitable or reactive materials.**

(a) Ignitable or reactive material must not be placed in tank systems, unless the material is stored or treated in such a way that it is protected from any material or conditions that may cause the material to ignite or react.

(b) The remanufacturer or other person that stores or treats hazardous secondary material which is ignitable or reactive must store or treat the hazardous secondary material in a tank that is in compliance with the requirements for the maintenance of protective distances between the material management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981), (incorporated by reference, see section 260.11).

#### **261.199. Special requirements for incompatible materials.**

(a) Incompatible materials must not be placed in the same tank system.

(b) Hazardous secondary material must not be placed in a tank-system that has not been decontaminated and that previously held an incompatible material.

#### **261.200. Air emission standards.**

The remanufacturer or other person that stores or treats the hazardous secondary material shall manage all hazardous secondary material placed in a tank in accordance with the applicable requirements of R.61-79.261 subparts AA, BB, and CC.

**Add 61-79.261 Subpart K and reserve:**

**Subpart K: [Reserved]**

**Add 61-79.261 Subpart L and reserve:**

**Subpart L: [Reserved]**

**Add 61-79.261 Subpart M to read:**

#### **SUBPART M: Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials**

#### **261.400. Applicability.**

The requirements of this subpart apply to those areas of an entity managing hazardous secondary materials excluded under section 261.4(a)(23) and/or (24) where hazardous secondary materials are generated or accumulated on site.

(a) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates six thousand (6000) kilograms or less of hazardous secondary material at any time must comply with sections 261.410 and 261.411.

(b) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates more than six thousand (6000) kilograms of hazardous secondary material at any time must comply with sections 261.410 and 261.420.

## **261.410. Preparedness and prevention.**

(a) Maintenance and operation of facility. Facilities generating or accumulating hazardous secondary material must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous secondary materials or hazardous secondary material constituents to air, soil, or surface water which could threaten human health or the environment.

(b) Required equipment. All facilities generating or accumulating hazardous secondary material must be equipped with the following, unless none of the hazards posed by hazardous secondary material handled at the facility could require a particular kind of equipment specified below:

(1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(c) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) Access to communications or alarm system.

(1) Whenever hazardous secondary material is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under paragraph (b) of this section.

(2) If there is ever just one (1) employee on the premises while the facility is operating, a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, must be immediately accessible unless such a device is not required under paragraph (b) of this section.

(e) Required aisle space. The hazardous secondary material generator or intermediate or reclamation facility must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(f) Arrangements with local authorities.

(1) The hazardous secondary material generator or an intermediate or reclamation facility must attempt to make the following arrangements, as appropriate for the type of waste handled at the facility and the potential need for the services of these organizations:

(i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous secondary material handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(ii) Where more than one (1) police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(iii) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(iv) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(2) Where state or local authorities decline to enter into such arrangements, the hazardous secondary material generator or an intermediate or reclamation facility must document the refusal in the operating record.

**261.411. Emergency procedures for facilities generating or accumulating 6000 kilograms or less of hazardous secondary material.**

A generator or an intermediate or reclamation facility that generates or accumulates six thousand (6000) kilograms or less of hazardous secondary material must comply with the following requirements:

(a) At all times there must be at least one (1) employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d) of this section. This employee is the emergency coordinator.

(b) The generator or intermediate or reclamation facility must post the following information next to the telephone:

(1) The name and telephone number of the emergency coordinator;

(2) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(3) The telephone number of the fire department, unless the facility has a direct alarm.

(c) The generator or an intermediate or reclamation facility must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(d) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(1) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(2) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(3) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator or an intermediate or reclamation facility has knowledge that a spill has reached surface water, the generator or an intermediate or reclamation facility must immediately notify the National Response Center (using their twenty-four-hour toll free number 800/424-8802). The report must include the following information:

(i) The name, address, and EPA Identification Number of the facility;

(ii) Date, time, and type of incident (e.g., spill or fire);

(iii) Quantity and type of hazardous waste involved in the incident;

(iv) Extent of injuries, if any; and

(v) Estimated quantity and disposition of recovered materials, if any.

**261.420. Contingency planning and emergency procedures for facilities generating or accumulating more than 6000 kilograms of hazardous secondary material.**

A generator or an intermediate or reclamation facility that generates or accumulates more than six thousand (6000) kilograms of hazardous secondary material must comply with the following requirements:

(a) Purpose and implementation of contingency plan.

(1) Each generator or an intermediate or reclamation facility that accumulates more than six thousand (6000) kilograms of hazardous secondary material must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.

(2) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous secondary material or hazardous secondary material constituents which could threaten human health or the environment.

(b) Content of contingency plan.

(1) The contingency plan must describe the actions facility personnel must take to comply with paragraphs (a) and (f) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.

(2) If the generator or an intermediate or reclamation facility accumulating more than six thousand (6000) kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasure (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, they need only to amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this part. The hazardous secondary material generator

or an intermediate or reclamation facility may develop one (1) contingency plan which meets all regulatory requirements. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-South Carolina Hazardous Waste Management provisions in an integrated contingency plan, the changes do not trigger the need for a South Carolina Hazardous Waste Management permit modification.

(3) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, pursuant to section 262.410(f).

(4) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see paragraph (e) of this section), and this list must be kept up-to-date. Where more than one (1) person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

(5) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(6) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(c) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:

(1) Maintained at the facility; and

(2) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(d) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(1) Applicable regulations are revised;

(2) The plan fails in an emergency;

(3) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or changes the response necessary in an emergency;

(4) The list of emergency coordinators changes; or

(5) The list of emergency equipment changes.

(e) Emergency coordinator. At all times, there must be at least one (1) employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency



coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more specified in paragraph (f). Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of hazardous secondary material(s) handled by the facility, and type and complexity of the facility.

(f) Emergency procedures.

(1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. This may be done by observation or review of facility records or manifests and, if necessary, by chemical analysis.

(3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

(4) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the findings must be reported as follows:

(i) If the assessment indicates that evacuation of local areas may be advisable, appropriate local authorities must be immediately notified. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) The government official designated as the on-scene coordinator for that geographical area or the National Response Center (using their twenty-four (24)-hour toll free number 800/424-8802) must be immediately notified. The report must include:

(A) Name and telephone number of reporter;

(B) Name and address of facility;

(C) Time and type of incident (e.g., release, fire);

(D) Name and quantity of material(s) involved, to the extent known;

(E) The extent of injuries, if any; and

(F) The possible hazards to human health, or the environment, outside the facility.

(5) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary material at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released material, and removing or isolating containers.

(6) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in accordance with section 261.3(c) or (d), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of R.61-79.262, 263, and 265.

(8) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(9) The hazardous secondary material generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen (15) days after the incident, a written report must be submitted on the incident to the Department. The report must include:

(i) Name, address, and telephone number of the hazardous secondary material generator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(vii) Estimated quantity and disposition of recovered material that resulted from the incident.

**Add 61-79.261 Subparts N to Z and reserve:**

**Subpart N-Z: [Reserved]**

**Add 61-79.261 Subpart AA to read:**

**Subpart AA: Air Emission Standards for Process Vents**

### **261.1030. Applicability.**

The regulations in this subpart apply to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or stream stripping operations that manage hazardous secondary materials excluded under the remanufacturing exclusion at section 261.4(a)(27) with concentrations of at least ten (10) parts per million by weight (ppmw), unless the process vents are equipped with operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63.

### **261.1031. Definitions.**

As used in this subpart, all terms not defined herein shall have the meaning given them in the South Carolina Hazardous Waste Management Act and R.61-79.260 through 266.

“Air stripping operation” is a desorption operation employed to transfer one (1) or more volatile components from a liquid mixture into a gas (air) either with or without the application of heat to the liquid. Packed towers, spray towers, and bubble-cap, sieve, or valve-type plate towers are among the process configurations used for contacting the air and a liquid.

“Bottoms receiver” means a container or tank used to receive and collect the heavier bottoms fractions of the distillation feed stream that remain in the liquid phase.

“Closed-vent system” means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

“Condenser” means a heat-transfer device that reduces a thermodynamic fluid from its vapor phase to its liquid phase.

“Connector” means flanged, screwed, welded, or other joined fittings used to connect two (2) pipelines or a pipeline and a piece of equipment. For the purposes of reporting and recordkeeping, connector means flanged fittings that are not covered by insulation or other materials that prevent location of the fittings.

“Continuous recorder” means a data-recording device recording an instantaneous data value at least once every fifteen (15) minutes.

“Control device” means an enclosed combustion device, vapor recovery system, or flare. Any device the primary function of which is the recovery or capture of solvents or other organics for use, reuse, or sale (e.g., a primary condenser on a solvent recovery unit) is not a control device.

“Control device shutdown” means the cessation of operation of a control device for any purpose.

“Distillate receiver” means a container or tank used to receive and collect liquid material (condensed) from the overhead condenser of a distillation unit and from which the condensed liquid is pumped to larger storage tanks or other process units.

“Distillation operation” means an operation, either batch or continuous, separating one (1) or more feed stream(s) into two (2) or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor phase as they approach equilibrium within the distillation unit.

**“Double block and bleed system”** means two (2) block valves connected in series with a bleed valve or line that can vent the line between the two (2) block valves.

**“Equipment”** means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, or flange or other connector, and any control devices or systems required by this subpart.

**“Flame zone”** means the portion of the combustion chamber in a boiler occupied by the flame envelope.

**“Flow indicator”** means a device that indicates whether gas flow is present in a vent stream.

**“First attempt at repair”** means to take rapid action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

**“Fractionation operation”** means a distillation operation or method used to separate a mixture of several volatile components of different boiling points in successive stages, each stage removing from the mixture some proportion of one (1) of the components.

**“Hazardous secondary material management unit shutdown”** means a work practice or operational procedure that stops operation of a hazardous secondary material management unit or part of a hazardous secondary material management unit. An unscheduled work practice or operational procedure that stops operation of a hazardous secondary material management unit or part of a hazardous secondary material management unit for less than twenty-four (24) hours is not a hazardous secondary material management unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping operation are not hazardous secondary material management unit shutdowns.

**“Hot well”** means a container for collecting condensate as in a steam condenser serving a vacuum-jet or steam-jet ejector.

**“In gas/vapor service”** means that the piece of equipment contains or contacts a hazardous secondary material stream that is in the gaseous state at operating conditions.

**“In heavy liquid service”** means that the piece of equipment is not in gas/vapor service or in light liquid service.

**“In light liquid service”** means that the piece of equipment contains or contacts a material stream where the vapor pressure of one (1) or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at twenty degrees Celsius (20°C), the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at twenty degrees Celsius (20°C) is equal to or greater than twenty (20) percent by weight, and the fluid is a liquid at operating conditions.

**“In situ sampling systems”** means nonextractive samplers or in-line samplers.

**“In vacuum service”** means that equipment is operating at an internal pressure that is at least five (5) kilopascals (kPa) below ambient pressure.

**“Malfunction”** means any sudden failure of a control device or a hazardous secondary material management unit, or failure of a hazardous secondary material management unit to operate in a normal or usual manner, so that organic emissions are increased.

**“Open-ended valve or line”** means any valve, except pressure relief valves, having one (1) side of the valve seat in contact with hazardous secondary material and one (1) side open to the atmosphere, either directly or through open piping.

**“Pressure release”** means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device.

**“Process heater”** means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that are heated to produce steam.

**“Process vent”** means any open-ended pipe or stack that is vented to the atmosphere either directly, through a vacuum-producing system, or through a tank (e.g., distillate receiver, condenser, bottoms receiver, surge control tank, separator tank, or hot well) associated with hazardous secondary material distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations.

**“Repaired”** means that equipment is adjusted, or otherwise altered, to eliminate a leak.

**“Sampling connection system”** means an assembly of equipment within a process or material management unit used during periods of representative operation to take samples of the process or material fluid. Equipment used to take non-routine grab samples is not considered a sampling connection system.

**“Sensor”** means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

**“Separator tank”** means a device used for separation of two (2) immiscible liquids.

**“Solvent extraction operation”** means an operation or method of separation in which a solid or solution is contacted with a liquid solvent (the two being mutually insoluble) to preferentially dissolve and transfer one (1) or more components into the solvent.

**“Startup”** means the setting in operation of a hazardous secondary material management unit or control device for any purpose.

**“Steam stripping operation”** means a distillation operation in which vaporization of the volatile constituents of a liquid mixture takes place by the introduction of steam directly into the charge.

**“Surge control tank”** means a large-sized pipe or storage reservoir sufficient to contain the surging liquid discharge of the process tank to which it is connected.

**“Thin-film evaporation operation”** means a distillation operation that employs a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical. Liquid is spread on the tube wall by a rotating assembly of blades that maintain a close clearance from the wall or actually ride on the film of liquid on the wall.

**“Vapor incinerator”** means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

**“Vented”** means discharged through an opening, typically an open-ended pipe or stack, allowing the passage of a stream of liquids, gases, or fumes into the atmosphere. The passage of liquids, gases, or fumes is caused by mechanical means such as compressors or vacuum-producing systems or by process-related

means such as evaporation produced by heating and not caused by tank loading and unloading (working losses) or by natural means such as diurnal temperature changes.

#### **261.1032. Standards: Process vents.**

(a) The remanufacturer or other person that stores or treats hazardous secondary materials in hazardous secondary material management units with process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations managing hazardous secondary material with organic concentrations of at least ten (10) parts per million by weight (ppmw) shall either:

(1) Reduce total organic emissions from all affected process vents at the facility below 1.4 kilograms/hour (3 lbs/h) and 2.8 Megagram/year (3.1 tons/yr), or

(2) Reduce, by use of a control device, total organic emissions from all affected process vents at the facility by ninety-five (95) weight percent.

(b) If the remanufacturer or other person that stores or treats the hazardous secondary material installs a closed-vent system and control device to comply with the provisions of paragraph (a) of this section the closed-vent system and control device must meet the requirements of section 261.1033.

(c) Determinations of vent emissions and emission reductions or total organic compound concentrations achieved by add-on control devices may be based on engineering calculations or performance tests. If performance tests are used to determine vent emissions, emission reductions, or total organic compound concentrations achieved by add-on control devices, the performance tests must conform with the requirements of section 261.1034(c).

(d) When a remanufacturer or other person that stores or treats the hazardous secondary material and the Department do not agree on determinations of vent emissions and/or emission reductions or total organic compound concentrations achieved by add-on control devices based on engineering calculations, the procedures in section 261.1034(c) shall be used to resolve the disagreement.

#### **261.1033. Standards: Closed-vent systems and control devices.**

(a)(1) The remanufacturer or other person that stores or treats the hazardous secondary materials in hazardous secondary material management units using closed-vent systems and control devices used to comply with provisions of this part shall comply with the provisions of this section.

(2) [Reserved]

(b) A control device involving vapor recovery (e.g., a condenser or adsorber) shall be designed and operated to recover the organic vapors vented to it with an efficiency of ninety-five (95) weight percent or greater unless the total organic emission limits of section 261.1032(a)(1) for all affected process vents can be attained at an efficiency less than ninety-five (95) weight percent.

(c) An enclosed combustion device (e.g., a vapor incinerator, boiler, or process heater) shall be designed and operated to reduce the organic emissions vented to it by ninety-five (95) weight percent or greater; to achieve a total organic compound concentration of twenty (20) ppmv, expressed as the sum of the actual compounds, not carbon equivalents, on a dry basis corrected to three (3) percent oxygen; or to provide a minimum residence time of 0.50 seconds at a minimum temperature of seven hundred and sixty degrees

Celsius (760°C). If a boiler or process heater is used as the control device, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(d)(1) A flare shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (e)(1) of this section, except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours.

(2) A flare shall be operated with a flame present at all times, as determined by the methods specified in paragraph (f)(2)(iii) of this section.

(3) A flare shall be used only if the net heating value of the gas being combusted is 11.2 megajoules (MJ)/standard cubic meter (scm) (300 British thermal units (Btu)/standard cubic foot (scf)) or greater if the flare is steam-assisted or air-assisted; or if the net heating value of the gas being combusted is 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (e)(2) of this section.

(4)(i) A steam-assisted or nonassisted flare shall be designed for and operated with an exit velocity, as determined by the methods specified in paragraph (e)(3) of this section, less than 18.3 meters/second (60 ft/s), except as provided in paragraphs (d)(4)(ii) and (iii) of this section.

(ii) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in paragraph (e)(3) of this section, equal to or greater than 18.3 m/s (60 ft/s) but less than 122 m/s (400 ft/s) is allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1000 Btu/scf).

(iii) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in paragraph (e)(3) of this section, less than the velocity,  $V_{\max}$ , as determined by the method specified in paragraph (e)(4) of this section and less than 122 m/s (400 ft/s) is allowed.

(5) An air-assisted flare shall be designed and operated with an exit velocity less than the velocity,  $V_{\max}$ , as determined by the method specified in paragraph (e)(5) of this section.

(6) A flare used to comply with this section shall be steam-assisted, air-assisted, or nonassisted.

(e)(1) Reference Method 22 in 40 CFR part 60 shall be used to determine the compliance of a flare with the visible emission provisions of this subpart. The observation period is two (2) hours and shall be used according to Method 22.

(2) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K[\sum_{i=1}^n C_i H_i]$$

Where:

$H_T$  = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at twenty-five degrees Celsius (25°C) and 760 millimeters of Mercury (mm Hg), but the standard temperature for determining the volume corresponding to one (1) mol is 20°C;

$K$  = constant,  $1.74 \times 10^{-7}$  (1/ppm) (g mol/scm) (MJ/kcal) where standard temperature for (g mol/scm) is 20°C;

C<sub>i</sub> = Concentration of sample component “i” in ppm on a wet basis, as measured for organics by Reference Method 18 in 40 CFR part 60 and measured for hydrogen and carbon monoxide by ASTM D 1946-82 (incorporated by reference as specified in section 260.11); and

H<sub>i</sub> = Net heat of combustion of sample component “i”, kcal/9 mol at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382-83 (incorporated by reference as specified in section 260.11) if published values are not available or cannot be calculated.

(3) The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate (in units of standard temperature and pressure), as determined by Reference Methods 2, 2A, 2C, or 2D in 40 CFR part 60 as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

(4) The maximum allowed velocity in m/s, V<sub>max</sub>, for a flare complying with paragraph (d)(4)(iii) of this section shall be determined by the following equation:

$$\text{Log}_{10}(V_{\text{max}}) = (H_T + 28.8)/31.7$$

Where:

28.8 = constant,

31.7 = constant,

H<sub>T</sub> = The net heating value as determined in paragraph (e)(2) of this section.

(5) The maximum allowed velocity in m/s, V<sub>max</sub>, for an air-assisted flare shall be determined by the following equation:

$$V_{\text{max}} = 8.706 + 0.7084 (H_T)$$

Where:

8.706 = constant,

0.7084 = constant,

H<sub>T</sub> = The net heating value as determined in paragraph (e)(2) of this section.

(f) The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor and inspect each control device required to comply with this section to ensure proper operation and maintenance of the control device by implementing the following requirements:

(1) Install, calibrate, maintain, and operate according to the manufacturer’s specifications a flow indicator that provides a record of vent stream flow from each affected process vent to the control device at least once every hour. The flow indicator sensor shall be installed in the vent stream at the nearest feasible point to the control device inlet but before the point at which the vent streams are combined.

(2) Install, calibrate, maintain, and operate according to the manufacturer’s specifications a device to continuously monitor control device operation as specified below:



(i) For a thermal vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device shall have an accuracy of  $\pm 1$  percent of the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  $\pm 0.5$  degrees Celsius ( $^{\circ}\text{C}$ ), whichever is greater. The temperature sensor shall be installed at a location in the combustion chamber downstream of the combustion zone.

(ii) For a catalytic vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature at two locations and have an accuracy of  $\pm 1$  (one) percent of the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  $\pm 0.5$  degrees Celsius ( $^{\circ}\text{C}$ ), whichever is greater. One temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

(iii) For a flare, a heat sensing monitoring device equipped with a continuous recorder that indicates the continuous ignition of the pilot flame.

(iv) For a boiler or process heater having a design heat input capacity less than forty-four (44) Megawatts (MW), a temperature monitoring device equipped with a continuous recorder. The device shall have an accuracy of  $\pm 1$  (one) percent of the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  $\pm 0.5$  degrees Celsius ( $^{\circ}\text{C}$ ), whichever is greater. The temperature sensor shall be installed at a location in the furnace downstream of the combustion zone.

(v) For a boiler or process heater having a design heat input capacity greater than or equal to forty-four (44) MW, a monitoring device equipped with a continuous recorder to measure a parameter(s) that indicates good combustion operating practices are being used.

(vi) For a condenser, either:

(A) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the condenser, or

(B) A temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature with an accuracy of  $\pm 1$  (one) percent of the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  $\pm 0.5$  degrees Celsius ( $^{\circ}\text{C}$ ), whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

(vii) For a carbon adsorption system that regenerates the carbon bed directly in the control device such as a fixed-bed carbon adsorber, either:

(A) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the carbon bed, or

(B) A monitoring device equipped with a continuous recorder to measure a parameter that indicates the carbon bed is regenerated on a regular, predetermined time cycle.

(3) Inspect the readings from each monitoring device required by paragraphs (f)(1) and (2) of this section at least once each operating day to check control device operation and, if necessary, immediately implement the corrective measures necessary to ensure the control device operates in compliance with the requirements of this section.

(g) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system such as a fixed-bed carbon adsorber

that regenerates the carbon bed directly onsite in the control device shall replace the existing carbon in the control device with fresh carbon at a regular, predetermined time interval that is no longer than the carbon service life established as a requirement of section 261.1035(b)(4)(iii)(F).

(h) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device shall replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the following procedures:

(1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency shall be daily or at an interval no greater than twenty (20) percent of the time required to consume the total carbon working capacity established as a requirement of section 261.1035(b)(4)(iii)(G), whichever is longer.

(2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of section 261.1035(b)(4)(iii)(G).

(i) An alternative operational or process parameter may be monitored if it can be demonstrated that another parameter will ensure that the control device is operated in conformance with these standards and the control device's design specifications.

(j) A remanufacturer or other person that stores or treats hazardous secondary material at an affected facility seeking to comply with the provisions of this part by using a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system is required to develop documentation including sufficient information to describe the control device operation and identify the process parameter or parameters that indicate proper operation and maintenance of the control device.

(k) A closed-vent system shall meet either of the following design requirements:

(1) A closed-vent system shall be designed to operate with no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppmv above background as determined by the procedure in section 261.1034(b) of this subpart, and by visual inspections; or

(2) A closed-vent system shall be designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

(l) The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor and inspect each closed-vent system required to comply with this section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

(1) Each closed-vent system that is used to comply with paragraph (k)(1) of this section shall be inspected and monitored in accordance with the following requirements:

(i) An initial leak detection monitoring of the closed-vent system shall be conducted by the remanufacturer or other person that stores or treats the hazardous secondary material on or before the date that the system becomes subject to this section. The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor the closed-vent system components and connections using the

procedures specified in section 261.1034(b) to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppmv above background.

(ii) After initial leak detection monitoring required in paragraph (l)(1)(i) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the closed-vent system as follows:

(A) Closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two (2) sections of hard piping or a bolted and gasketed ducting flange) shall be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor a component or connection using the procedures specified in section 261.1034(b) of this subpart to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted).

(B) Closed-vent system components or connections other than those specified in paragraph (l)(1)(ii)(A) of this section shall be monitored annually and at other times as requested by the Department, except as provided for in paragraph (o) of this section, using the procedures specified in section 261.1034(b) to demonstrate that the components or connections operate with no detectable emissions.

(iii) In the event that a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect or leak in accordance with the requirements of paragraph (l)(3) of this section.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection and monitoring in accordance with the requirements specified in section 261.1035.

(2) Each closed-vent system that is used to comply with paragraph (k)(2) of this section shall be inspected and monitored in accordance with the following requirements:

(i) The closed-vent system shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping or loose connections.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once every year.

(iii) In the event that a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (l)(3) of this section.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection and monitoring in accordance with the requirements specified in section 261.1035.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall repair all detected defects as follows:

(i) Detectable emissions, as indicated by visual inspection, or by an instrument reading greater than five hundred (500) ppmv above background, shall be controlled as soon as practicable, but not later than fifteen (15) days after the emission is detected, except as provided for in paragraph (1)(3)(iii) of this section.

(ii) A first attempt at repair shall be made no later than five (5) days after the emission is detected.

(iii) Delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown, or if the remanufacturer or other person that stores or treats the hazardous secondary material determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be completed by the end of the next process unit shutdown.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the defect repair in accordance with the requirements specified in section 261.1035 of this subpart.

(m) Closed-vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

(n) The owner or operator using a carbon adsorption system to control air pollutant emissions shall document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the average volatile organic concentration of the carbon:

(1) Regenerated or reactivated in a thermal treatment unit that meets one of the following:

(i) The owner or operator of the unit has been issued a final permit under R.61-79.270 which implements the requirements of 40 CFR 261 subpart X; or

(ii) The unit is equipped with and operating air emission controls in accordance with the applicable requirements of subparts AA and CC of either R.61-79.261 or 265; or

(iii) The unit is equipped with and operating air emission controls in accordance with a national emission standard for hazardous air pollutants under 40 CFR part 61 or 40 CFR part 63.

(2) Incinerated in a hazardous waste incinerator for which the owner or operator either:

(i) Has been issued a final permit under R.61-79.270 which implements the requirements of 40 CFR 261 subpart O; or

(ii) Has designed and operates the incinerator in accordance with the interim status requirements of 40 CFR 265 subpart O.

(3) Burned in a boiler or industrial furnace for which the owner or operator either:

(i) Has been issued a final permit under R.61-79.270 which implements the requirements of R.61-79.266 subpart H; or

(ii) Has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of R.61-79.266 subpart H.

(o) Any components of a closed-vent system that are designated, as described in section 261.1035(c)(9) of this subpart, as unsafe to monitor are exempt from the requirements of paragraph (l)(1)(ii)(B) of this section if:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system determines that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (l)(1)(ii)(B) of this section; and

(2) The remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in paragraph (l)(1)(ii)(B) of this section as frequently as practicable during safe-to-monitor times.

#### **261.1034. Test methods and procedures.**

(a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to the provisions of this subpart shall comply with the test methods and procedural requirements provided in this section.

(b) When a closed-vent system is tested for compliance with no detectable emissions, as required in section 261.1033(l) of this subpart, the test shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60.

(2) The detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than ten (10) parts per million (ppm) of hydrocarbon in air).

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, ten thousand (10,000) ppm methane or n-hexane.

(5) The background level shall be determined as set forth in Reference Method 21.

(6) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(7) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with five hundred (500) ppm for determining compliance.

(c) Performance tests to determine compliance with section 261.1032(a) and with the total organic compound concentration limit of section 261.1033(c) shall comply with the following:

(1) Performance tests to determine total organic compound concentrations and mass flow rates entering and exiting control devices shall be conducted and data reduced in accordance with the following reference methods and calculation procedures:

(i) Method 2 in 40 CFR part 60 for velocity and volumetric flow rate.

(ii) Method 18 or Method 25A in 40 CFR part 60, appendix A, for organic content. If Method 25A is used, the organic HAP used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least twenty (20) times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(iii) Each performance test shall consist of three separate runs; each run conducted for at least one (1) hour under the conditions that exist when the hazardous secondary material management unit is operating at the highest load or capacity level reasonably expected to occur. For the purpose of determining total organic compound concentrations and mass flow rates, the average of results of all runs shall apply. The average shall be computed on a time-weighted basis.

(iv) Total organic mass flow rates shall be determined by the following equation:

(A) For sources utilizing Method 18.

$$E_k = Q_{2sd} \{ \sum_{i=1}^n C_i MW_i \} [0.0416] [10^{-6}]$$

Where:

E<sub>h</sub> = Total organic mass flow rate, kg/h;

Q<sub>2sd</sub> = Volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h;

n = Number of organic compounds in the vent gas;

C<sub>i</sub> = Organic concentration in ppm, dry basis, of compound “i” in the vent gas, as determined by Method 18;

MW<sub>i</sub> = Molecular weight of organic compound “i” in the vent gas, kg/kg-mol;

0.0416 = Conversion factor for molar volume, kg-mol/m<sup>3</sup> (@293 K and 760 mm Hg);

10<sup>-6</sup> = Conversion from ppm

(B) For sources utilizing Method 25A.

$$E_h = (Q)(C)(MW)(0.0416)(10^{-6})$$

Where:

E<sub>h</sub> = Total organic mass flow rate, kg/h;

Q = Volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h;

C = Organic concentration in ppm, dry basis, as determined by Method 25A;

MW = Molecular weight of propane, 44;

0.0416 = Conversion factor for molar volume, kg-mol/m<sup>3</sup> (@293 K and 760 mm Hg);

10<sup>-6</sup> = Conversion from ppm.

(v) The annual total organic emission rate shall be determined by the following equation:

$$E_A = (E_h)(H)$$

Where:

E<sub>A</sub> = Total organic mass emission rate, kg/y;

E<sub>h</sub> = Total organic mass flow rate for the process vent, kg/h;

H = Total annual hours of operations for the affected unit, h.

(vi) Total organic emissions from all affected process vents at the facility shall be determined by summing the hourly total organic mass emission rates (E<sub>h</sub>, as determined in paragraph (c)(1)(iv) of this section) and by summing the annual total organic mass emission rates (E<sub>A</sub>, as determined in paragraph (c)(1)(v) of this section) for all affected process vents at the facility.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall record such process information as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material at an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

(i) Sampling ports adequate for the test methods specified in paragraph (c)(1) of this section.

(ii) Safe sampling platform(s).

(iii) Safe access to sampling platform(s).

(iv) Utilities for sampling and testing equipment.

(4) For the purpose of making compliance determinations, the time-weighted average of the results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the remanufacturer's or other person's that stores or treats the hazardous secondary material control, compliance may, upon the Department's approval, be determined using the average of the results of the two other runs.

(d) To show that a process vent associated with a hazardous secondary material distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation is not subject to the requirements of this subpart, the remanufacturer or other person that stores or treats the hazardous secondary material must make an initial determination that the time-weighted, annual average total organic concentration of the material managed by the hazardous secondary material management unit is less than ten (10) ppmw using one of the following two (2) methods:

(1) Direct measurement of the organic concentration of the material using the following procedures:

(i) The remanufacturer or other person that stores or treats the hazardous secondary material must take a minimum of four (4) grab samples of material for each material stream managed in the affected unit under process conditions expected to cause the maximum material organic concentration.

(ii) For material generated onsite, the grab samples must be collected at a point before the material is exposed to the atmosphere such as in an enclosed pipe or other closed system that is used to transfer the material after generation to the first affected distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation. For material generated offsite, the grab samples must be collected at the inlet to the first material management unit that receives the material provided the material has been transferred to the facility in a closed system such as a tank truck and the material is not diluted or mixed with other material.

(iii) Each sample shall be analyzed and the total organic concentration of the sample shall be computed using Method 9060A (incorporated by reference under section 260.11) of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, or analyzed for its individual organic constituents.

(iv) The arithmetic mean of the results of the analyses of the four (4) samples shall apply for each material stream managed in the unit in determining the time-weighted, annual average total organic concentration of the material. The time-weighted average is to be calculated using the annual quantity of each material stream processed and the mean organic concentration of each material stream managed in the unit.

(2) Using knowledge of the material to determine that its total organic concentration is less than ten (10) ppmw. Documentation of the material determination is required. Examples of documentation that shall be used to support a determination under this provision include production process information documenting that no organic compounds are used, information that the material is generated by a process that is identical to a process at the same or another facility that has previously been demonstrated by direct measurement to generate a material stream having a total organic content less than ten (10) ppmw, or prior speciation analysis results on the same material stream where it can also be documented that no process changes have occurred since that analysis that could affect the material total organic concentration.

(e) The determination that distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations manage hazardous secondary materials with time-weighted, annual average total organic concentrations less than ten (10) ppmw shall be made as follows:

(1) By the effective date that the facility becomes subject to the provisions of this subpart or by the date when the material is first managed in a hazardous secondary material management unit, whichever is later, and

(2) For continuously generated material, annually, or



(3) Whenever there is a change in the material being managed or a change in the process that generates or treats the material.

(f) When a remanufacturer or other person that stores or treats the hazardous secondary material and the Department do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous secondary material with organic concentrations of at least ten (10) ppmw based on knowledge of the material, the dispute may be resolved by using direct measurement as specified at paragraph (d)(1) of this section.

#### **261.1035. Recordkeeping requirements.**

(a)(1) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(2) A remanufacturer or other person that stores or treats the hazardous secondary material of more than one (1) hazardous secondary material management unit subject to the provisions of this subpart may comply with the recordkeeping requirements for these hazardous secondary material management units in one recordkeeping system if the system identifies each record by each hazardous secondary material management unit.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material must keep the following records on-site:

(1) For facilities that comply with the provisions of section 261.1033(a)(2), an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The schedule must also include a rationale of why the installation cannot be completed at an earlier date. The implementation schedule must be kept on-site at the facility by the effective date that the facility becomes subject to the provisions of this subpart.

(2) Up-to-date documentation of compliance with the process vent standards in section 261.1032, including:

(i) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous secondary material management units on a facility plot plan).

(ii) Information and data supporting determinations of vent emissions and emission reductions achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, determinations of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or vent stream organic compounds and concentrations) that represent the conditions that result in maximum organic emissions, such as when the hazardous secondary material management unit is operating at the highest load or capacity level reasonably expected to occur. If the remanufacturer or other person that stores or treats the hazardous secondary material takes any action (e.g., managing a material of different composition or increasing operating hours of affected hazardous secondary material management units) that would result in an increase in total organic emissions from affected process vents at the facility, then a new determination is required.

(3) Where a remanufacturer or other person that stores or treats the hazardous secondary material chooses to use test data to determine the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan must be developed and include:

(i) A description of how it is determined that the planned test is going to be conducted when the hazardous secondary material management unit is operating at the highest load or capacity level reasonably expected to occur. This shall include the estimated or design flow rate and organic content of each vent stream and define the acceptable operating ranges of key process and control device parameters during the test program.

(ii) A detailed engineering description of the closed-vent system and control device including:

(A) Manufacturer's name and model number of control device.

(B) Type of control device.

(C) Dimensions of the control device.

(D) Capacity.

(E) Construction materials.

(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(4) Documentation of compliance with section 261.1033 shall include the following information:

(i) A list of all information references and sources used in preparing the documentation.

(ii) Records, including the dates, of each compliance test required by section 261.1033(k).

(iii) If engineering calculations are used, a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in section 260.11) or other engineering texts acceptable to the Department that present basic control device design information. Documentation provided by the control device manufacturer or vendor that describes the control device design in accordance with paragraphs (b)(4)(iii)(A) through (G) of this section may be used to comply with this requirement. The design analysis shall address the vent stream characteristics and control device operation parameters as specified below.

(A) For a thermal vapor incinerator, the design analysis shall consider the vent stream composition, constituent concentrations, and flow rate. The design analysis shall also establish the design minimum and average temperature in the combustion zone and the combustion zone residence time.

(B) For a catalytic vapor incinerator, the design analysis shall consider the vent stream composition, constituent concentrations, and flow rate. The design analysis shall also establish the design minimum and average temperatures across the catalyst bed inlet and outlet.

(C) For a boiler or process heater, the design analysis shall consider the vent stream composition, constituent concentrations, and flow rate. The design analysis shall also establish the design minimum and average flame zone temperatures, combustion zone residence time, and description of method and location where the vent stream is introduced into the combustion zone.

(D) For a flare, the design analysis shall consider the vent stream composition, constituent concentrations, and flow rate. The design analysis shall also consider the requirements specified in section 261.1033(d).

(E) For a condenser, the design analysis shall consider the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature. The design analysis shall also establish the design outlet organic compound concentration level, design average temperature of the condenser exhaust vent stream, and design average temperatures of the coolant fluid at the condenser inlet and outlet.

(F) For a carbon adsorption system such as a fixed-bed adsorber that regenerates the carbon bed directly onsite in the control device, the design analysis shall consider the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature. The design analysis shall also establish the design exhaust vent stream organic compound concentration level, number and capacity of carbon beds, type and working capacity of activated carbon used for carbon beds, design total steam flow over the period of each complete carbon bed regeneration cycle, duration of the carbon bed steaming and cooling/drying cycles, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of carbon.

(G) For a carbon adsorption system such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device, the design analysis shall consider the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature. The design analysis shall also establish the design outlet organic concentration level, capacity of carbon bed, type and working capacity of activated carbon used for carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule.

(iv) A statement signed and dated by the remanufacturer or other person that stores or treats the hazardous secondary material certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous secondary material management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(v) A statement signed and dated by the remanufacturer or other person that stores or treats the hazardous secondary material certifying that the control device is designed to operate at an efficiency of ninety-five (95) percent or greater unless the total organic concentration limit of section 261.1032(a) is achieved at an efficiency less than ninety-five (95) weight percent or the total organic emission limits of section 261.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than ninety-five (95) weight percent. A statement provided by the control device manufacturer or vendor certifying that the control equipment meets the design specifications may be used to comply with this requirement.

(vi) If performance tests are used to demonstrate compliance, all test results.

(c) Design documentation and monitoring, operating, and inspection information for each closed-vent system and control device required to comply with the provisions of this part shall be recorded and kept up-to-date at the facility. The information shall include:

(1) Description and date of each modification that is made to the closed-vent system or control device design.

(2) Identification of operating parameter, description of monitoring device, and diagram of monitoring sensor location or locations used to comply with section 261.1033 (f)(1) and (2).

(3) Monitoring, operating, and inspection information required by section 261.1033(f) through (k).

(4) Date, time, and duration of each period that occurs while the control device is operating when any monitored parameter exceeds the value established in the control device design analysis as specified below:

(i) For a thermal vapor incinerator designed to operate with a minimum residence time of 0.50 seconds at a minimum temperature of seven hundred and sixty degrees Celsius (760°C), period when the combustion temperature is below 760°C.

(ii) For a thermal vapor incinerator designed to operate with an organic emission reduction efficiency of ninety-five (95) weight percent or greater, period when the combustion zone temperature is more than twenty-eight degrees Celsius (28°C) below the design average combustion zone temperature established as a requirement of paragraph (b)(4)(iii)(A) of this section.

(iii) For a catalytic vapor incinerator, period when:

(A) Temperature of the vent stream at the catalyst bed inlet is more than twenty-eight degrees Celsius (28°C) below the average temperature of the inlet vent stream established as a requirement of paragraph (b)(4)(iii)(B) of this section, or

(B) Temperature difference across the catalyst bed is less than eighty (80) percent of the design average temperature difference established as a requirement of paragraph (b)(4)(iii)(B) of this section.

(iv) For a boiler or process heater, period when:

(A) Flame zone temperature is more than twenty-eight degrees Celsius (28°C) below the design average flame zone temperature established as a requirement of paragraph (b)(4)(iii)(C) of this section, or

(B) Position changes where the vent stream is introduced to the combustion zone from the location established as a requirement of paragraph (b)(4)(iii)(C) of this section.

(v) For a flare, period when the pilot flame is not ignited.

(vi) For a condenser that complies with section 261.1033(f)(2)(vi)(A), period when the organic compound concentration level or readings of organic compounds in the exhaust vent stream from the condenser are more than twenty (20) percent greater than the design outlet organic compound concentration level established as a requirement of paragraph (b)(4)(iii)(E) of this section.

(vii) For a condenser that complies with section 261.1033(f)(2)(vi)(B), period when:

(A) Temperature of the exhaust vent stream from the condenser is more than six degrees Celsius (6°C) above the design average exhaust vent stream temperature established as a requirement of paragraph (b)(4)(iii)(E) of this section; or

(B) Temperature of the coolant fluid exiting the condenser is more than six degrees Celsius (6°C) above the design average coolant fluid temperature at the condenser outlet established as a requirement of paragraph (b)(4)(iii)(E) of this section.

(viii) For a carbon adsorption system such as a fixed-bed carbon adsorber that regenerates the carbon bed directly on-site in the control device and complies with section 261.1033(f)(2)(vii)(A), period when the organic compound concentration level or readings of organic compounds in the exhaust vent stream from

the carbon bed are more than twenty (20) percent greater than the design exhaust vent stream organic compound concentration level established as a requirement of paragraph (b)(4)(iii)(F) of this section.

(ix) For a carbon adsorption system such as a fixed-bed carbon adsorber that regenerates the carbon bed directly on-site in the control device and complies with section 261.1033(f)(2)(vii)(B), period when the vent stream continues to flow through the control device beyond the predetermined carbon bed regeneration time established as a requirement of paragraph (b)(4)(iii)(F) of this section.

(5) Explanation for each period recorded under paragraph (c)(4) of the cause for control device operating parameter exceeding the design value and the measures implemented to correct the control device operation.

(6) For a carbon adsorption system operated subject to requirements specified in section 261.1033(g) or (h)(2), date when existing carbon in the control device is replaced with fresh carbon.

(7) For a carbon adsorption system operated subject to requirements specified in section 261.1033(h)(1), a log that records:

(i) Date and time when control device is monitored for carbon breakthrough and the monitoring device reading.

(ii) Date when existing carbon in the control device is replaced with fresh carbon.

(8) Date of each control device startup and shutdown.

(9) A remanufacturer or other person that stores or treats the hazardous secondary material designating any components of a closed-vent system as unsafe to monitor pursuant to section 261.1033(o) of this subpart shall record in a log that is kept at the facility the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of section 261.1033(o) of this subpart, an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component.

(10) When each leak is detected as specified in section 261.1033(l), the following information shall be recorded:

(i) The instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number.

(ii) The date the leak was detected and the date of first attempt to repair the leak.

(iii) The date of successful repair of the leak.

(iv) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A after it is successfully repaired or determined to be nonreparable.

(v) "Repair delayed" and the reason for the delay if a leak is not repaired within fifteen (15) days after discovery of the leak.

(A) The remanufacturer or other person that stores or treats the hazardous secondary material may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

(B) If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.

(d) Records of the monitoring, operating, and inspection information required by paragraphs (c)(3) through (10) of this section shall be maintained by the owner or operator for at least three (3) years following the date of each occurrence, measurement, maintenance, corrective action, or record.

(e) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system, the Department will specify the appropriate recordkeeping requirements.

(f) Up-to-date information and data used to determine whether or not a process vent is subject to the requirements in section 261.1032, including supporting documentation as required by section 261.1034(d)(2) when application of the knowledge of the nature of the hazardous secondary material stream or the process by which it was produced is used, shall be recorded in a log that is kept at the facility.

**261.1036. [Reserved]**

**261.1037. [Reserved]**

**261.1038. [Reserved]**

**261.1039. [Reserved]**

**261.1040. [Reserved]**

**261.1041. [Reserved]**

**261.1042. [Reserved]**

**261.1043. [Reserved]**

**261.1044. [Reserved]**

**261.1045. [Reserved]**

**261.1046. [Reserved]**

**261.1047. [Reserved]**

**261.1048. [Reserved]**

**261.1049. [Reserved]**

**Add 61-79.261 Subpart BB to read:**

**Subpart BB: Air Emission Standards for Equipment Leaks**

**261.1050. Applicability.**

The regulations in this subpart apply to equipment that contains hazardous secondary materials excluded under the remanufacturing exclusion at section 261.4(a)(27), unless the equipment operations are subject to the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63.

#### **261.1051. Definitions.**

As used in this subpart, all terms shall have the meaning given them in section 261.1031, the South Carolina Hazardous Waste Management Act and R.61-79.260 through 266.

#### **261.1052. Standards: Pumps in light liquid service.**

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in section 261.1063(b), except as provided in paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

(b)(1) If an instrument reading of ten thousand (10,000) parts per million (ppm) or greater is measured, a leak is detected.

(2) If there are indications of liquids dripping from the pump seal, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than fifteen (15) calendar days after it is detected, except as provided in section 261.1059.

(2) A first attempt at repair (e.g., tightening the packing gland) shall be made no later than five (5) calendar days after each leak is detected.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a) of this section, provided the following requirements are met:

(1) Each dual mechanical seal system must be:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure, or

(ii) Equipped with a barrier fluid degassing reservoir that is connected by a closed-vent system to a control device that complies with the requirements of section 261.1060, or

(iii) Equipped with a system that purges the barrier fluid into a hazardous secondary material stream with no detectable emissions to the atmosphere.

(2) The barrier fluid system must not be a hazardous secondary material with organic concentrations ten (10) percent or greater by weight.

(3) Each barrier fluid system must be equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4) Each pump must be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(5)(i) Each sensor as described in paragraph (d)(3) of this section must be checked daily or be equipped with an audible alarm that must be checked monthly to ensure that it is functioning properly.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material must determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(6)(i) If there are indications of liquids dripping from the pump seal or the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion determined in paragraph (d)(5)(ii) of this section, a leak is detected.

(ii) When a leak is detected, it shall be repaired as soon as practicable, but not later than fifteen (15) calendar days after it is detected, except as provided in section 261.1059.

(iii) A first attempt at repair (e.g., relapping the seal) shall be made no later than five (5) calendar days after each leak is detected.

(e) Any pump that is designated, as described in section 261.1064(g)(2), for no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) of this section if the pump meets the following requirements:

(1) Must have no externally actuated shaft penetrating the pump housing.

(2) Must operate with no detectable emissions as indicated by an instrument reading of less than five hundred (500) ppm above background as measured by the methods specified in section 261.1063(c).

(3) Must be tested for compliance with paragraph (e)(2) of this section initially upon designation, annually, and at other times as requested by the Department.

(f) If any pump is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal or seals to a control device that complies with the requirements of section 261.1060, it is exempt from the requirements of paragraphs (a) through (e) of this section.

### **261.1053. Standards: Compressors.**

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of total organic emissions to the atmosphere, except as provided in paragraphs (h) and (i) of this section.

(b) Each compressor seal system as required in paragraph (a) of this section shall be:

(1) Operated with the barrier fluid at a pressure that is at all times greater than the compressor stuffing box pressure;

(2) Equipped with a barrier fluid system that is connected by a closed-vent system to a control device that complies with the requirements of section 261.1060; or

(3) Equipped with a system that purges the barrier fluid into a hazardous secondary material stream with no detectable emissions to atmosphere.



(c) The barrier fluid must not be a hazardous secondary material with organic concentrations ten (10) percent or greater by weight.

(d) Each barrier fluid system as described in paragraphs (a) through (c) of this section shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in paragraph (d) of this section shall be checked daily or shall be equipped with an audible alarm that must be checked monthly to ensure that it is functioning properly unless the compressor is located within the boundary of an unmanned plant site, in which case the sensor must be checked daily.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(f) If the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion determined under paragraph (e)(2) of this section, a leak is detected.

(g)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than fifteen (15) calendar days after it is detected, except as provided in section 261.1059.

(2) A first attempt at repair (e.g., tightening the packing gland) shall be made no later than five (5) calendar days after each leak is detected.

(h) A compressor is exempt from the requirements of paragraphs (a) and (b) of this section if it is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal to a control device that complies with the requirements of section 261.1060, except as provided in paragraph (i) of this section.

(i) Any compressor that is designated, as described in section 261.1064(g)(2), for no detectable emissions as indicated by an instrument reading of less than five hundred (500) ppm above background is exempt from the requirements of paragraphs (a) through (h) of this section if the compressor:

(1) Is determined to be operating with no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, as measured by the method specified in section 261.1063(c).

(2) Is tested for compliance with paragraph (i)(1) of this section initially upon designation, annually, and at other times as requested by the Department.

#### **261.1054. Standards: Pressure relief devices in gas/vapor service.**

(a) Except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, as measured by the method specified in section 261.1063(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, as soon as practicable, but no later than five (5) calendar days after each pressure release, except as provided in section 261.1059.

(2) No later than five (5) calendar days after the pressure release, the pressure relief device shall be monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, as measured by the method specified in section 261.1063(c).

(c) Any pressure relief device that is equipped with a closed-vent system capable of capturing and transporting leakage from the pressure relief device to a control device as described in section 261.1060 is exempt from the requirements of paragraphs (a) and (b) of this section.

#### **261.1055. Standards: Sampling connection systems.**

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system. This system shall collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall meet one (1) of the following requirements:

(1) Return the purged process fluid directly to the process line;

(2) Collect and recycle the purged process fluid; or

(3) Be designed and operated to capture and transport all the purged process fluid to a material management unit that complies with the applicable requirements of sections 261.1084 through 264.1086 of this subpart or a control device that complies with the requirements of section 261.1060 of this subpart.

(c) In-situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (a) and (b) of this section.

#### **261.1056. Standards: Open-ended valves or lines.**

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.

(2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring hazardous secondary material stream flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the hazardous secondary material stream end is closed before the second valve is closed.

(c) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (a) of this section at all other times.

#### **261.1057. Standards: Valves in gas/vapor service or in light liquid service.**

(a) Each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in section 261.1063(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section and sections 261.1061 and 261.1062.

(b) If an instrument reading of ten thousand (10,000) ppm or greater is measured, a leak is detected.

(c)(1) Any valve for which a leak is not detected for two successive months may be monitored the first month of every succeeding quarter, beginning with the next quarter, until a leak is detected.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for two (2) successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than fifteen (15) calendar days after the leak is detected, except as provided in section 261.1059.

(2) A first attempt at repair shall be made no later than five (5) calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts.

(2) Replacement of bonnet bolts.

(3) Tightening of packing gland nuts.

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in section 261.1064(g)(2), for no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, is exempt from the requirements of paragraph (a) of this section if the valve:

(1) Has no external actuating mechanism in contact with the hazardous secondary material stream.

(2) Is operated with emissions less than five hundred (500) ppm above background as determined by the method specified in section 261.1063(c).

(3) Is tested for compliance with paragraph (f)(2) of this section initially upon designation, annually, and at other times as requested by the Department.

(g) Any valve that is designated, as described in section 261.1064(h)(1), as an unsafe-to-monitor valve is exempt from the requirements of paragraph (a) of this section if:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

(h) Any valve that is designated, as described in section 261.1064(h)(2), as a difficult-to-monitor valve is exempt from the requirements of paragraph (a) of this section if:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material determines that the valve cannot be monitored without elevating the monitoring personnel more than two (2) meters above a support surface.

(2) The hazardous secondary material management unit within which the valve is located was in operation before January 13, 2015.

(3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

**261.1058. Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.**

(a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors shall be monitored within five (5) days by the method specified in section 261.1063(b) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.

(b) If an instrument reading of ten thousand (10,000) ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than fifteen (15) calendar days after it is detected, except as provided in section 261.1059.

(2) The first attempt at repair shall be made no later than five (5) calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under section 261.1057(e).

(e) Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined) is exempt from the monitoring requirements of paragraph (a) of this section and from the recordkeeping requirements of section 261.1064.

**261.1059. Standards: Delay of repair.**

(a) Delay of repair of equipment for which leaks have been detected will be allowed if the repair is technically infeasible without a hazardous secondary material management unit shutdown. In such a case, repair of this equipment shall occur before the end of the next hazardous secondary material management unit shutdown.

(b) Delay of repair of equipment for which leaks have been detected will be allowed for equipment that is isolated from the hazardous secondary material management unit and that does not continue to contain or contact hazardous secondary material with organic concentrations at least ten (10) percent by weight.

(c) Delay of repair for valves will be allowed if:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material determines that emissions of purged material resulting from immediate repair are greater than the emissions likely to result from delay of repair.

(2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with section 261.1060.

(d) Delay of repair for pumps will be allowed if:

(1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system.

(2) Repair is completed as soon as practicable, but not later than six (6) months after the leak was detected.

(e) Delay of repair beyond a hazardous secondary material management unit shutdown will be allowed for a valve if valve assembly replacement is necessary during the hazardous secondary material management unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next hazardous secondary material management unit shutdown will not be allowed unless the next hazardous secondary material management unit shutdown occurs sooner than six (6) months after the first hazardous secondary material management unit shutdown.

**261.1060. Standards: Closed-vent systems and control devices.**

(a) The remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management units using closed-vent systems and control devices subject to this subpart shall comply with the provisions of section 261.1033.

(b)(1) The remanufacturer or other person that stores or treats the hazardous secondary material at an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the provisions of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to thirty (30) months after the effective date that the facility becomes subject to this subpart for installation and startup.

(2) Any unit that begins operation after July 13, 2015, and is subject to the provisions of this subpart when operation begins, must comply with the rules immediately (i.e., must have control devices installed and operating on startup of the affected unit); the thirty (30)-month implementation schedule does not apply.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material at any facility in existence on the effective date of a statutory or regulatory amendment that renders the facility subject to this subpart shall comply with all requirements of this subpart as soon as practicable but no later than thirty (30) months after the amendment's effective date. When control equipment required by this subpart cannot be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information: Specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this subpart. The remanufacturer or other person that stores or treats the hazardous secondary material shall keep a copy of the implementation schedule at the facility.

(4) Remanufacturers or other persons that store or treat the hazardous secondary materials at facilities and units that become newly subject to the requirements of this subpart after January 13, 2015, due to an action other than those described in paragraph (b)(3) of this section, must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the thirty (30)-month implementation schedule does not apply).

**261.1061. Alternative standards for valves in gas/vapor service or in light liquid service: percentage of valves allowed to leak.**

(a) A remanufacturer or other person that stores or treats the hazardous secondary material subject to the requirements of section 261.1057 may elect to have all valves within a hazardous secondary material management unit comply with an alternative standard that allows no greater than two (2) percent of the valves to leak.

(b) The following requirements shall be met if a remanufacturer or other person that stores or treats the hazardous secondary material decides to comply with the alternative standard of allowing two (2) percent of valves to leak:

(1) A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Department.

(2) If a valve leak is detected, it shall be repaired in accordance with section 261.1057(d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves subject to the requirements in section 261.1057 within the hazardous secondary material management unit shall be monitored within one (1) week by the methods specified in section 261.1063(b).

(2) If an instrument reading of ten thousand (10,000) ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves subject to the requirements in section 261.1057 for which leaks are detected by the total number of valves subject to the requirements in section 261.1057 within the hazardous secondary material management unit.

**261.1062. Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair.**

(a) A remanufacturer or other person that stores or treats the hazardous secondary material subject to the requirements of section 261.1057 may elect for all valves within a hazardous secondary material management unit to comply with one (1) of the alternative work practices specified in paragraphs (b)(2) and (3) of this section.

(b)(1) A remanufacturer or other person that stores or treats the hazardous secondary material shall comply with the requirements for valves, as described in section 261.1057, except as described in paragraphs (b)(2) and (3) of this section.

(2) After two (2) consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two (2) percent, a remanufacturer or other person that stores or treats the hazardous secondary material may begin to skip one (1) of the quarterly leak detection periods (i.e., monitor for leaks once every six (6) months) for the valves subject to the requirements in section 261.1057 of this subpart.

(3) After five (5) consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two (2) percent, a remanufacturer or other person that stores or treats the hazardous secondary material may begin to skip three (3) of the quarterly leak detection periods (i.e., monitor for leaks once every year) for the valves subject to the requirements in section 261.1057 of this subpart.

(4) If the percentage of valves leaking is greater than two (2) percent, the remanufacturer or other person that stores or treats the hazardous secondary material shall monitor monthly in compliance with the requirements in section 261.1057, but may again elect to use this section after meeting the requirements of section 261.1057(c)(1).

**261.1063. Test methods and procedures.**

(a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to the provisions of this subpart shall comply with the test methods and procedures requirements provided in this section.

(b) Leak detection monitoring, as required in sections 261.1052 through 261.1062, shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60.

(2) The detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than ten (10) ppm of hydrocarbon in air).

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, ten thousand (10,000) ppm methane or n-hexane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(c) When equipment is tested for compliance with no detectable emissions, as required in sections 261.1052(e), 261.1053(i), 261.1054, and 261.1057(f), the test shall comply with the following requirements:

(1) The requirements of paragraphs (b)(1) through (4) of this section shall apply.

(2) The background level shall be determined as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with five hundred (500) ppm for determining compliance.

(d) A remanufacturer or other person that stores or treats the hazardous secondary material must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous secondary material with organic concentration that equals or exceeds ten (10) percent by weight using the following:

(1) Methods described in ASTM Methods D 2267-88, E 169-87, E 168-88, E 260-85 (incorporated by reference under section 260.11);

(2) Method 9060A (incorporated by reference under section 260.11) of “Test Methods for Evaluating Solid Waste,” EPA Publication SW-846, for computing total organic concentration of the sample, or analyzed for its individual organic constituents; or

(3) Application of the knowledge of the nature of the hazardous secondary material stream or the process by which it was produced. Documentation of a material determination by knowledge is required. Examples of documentation that shall be used to support a determination under this provision include production process information documenting that no organic compounds are used, information that the material is generated by a process that is identical to a process at the same or another facility that has previously been demonstrated by direct measurement to have a total organic content less than ten (10) percent, or prior speciation analysis results on the same material stream where it can also be documented that no process changes have occurred since that analysis that could affect the material total organic concentration.

(e) If a remanufacturer or other person that stores or treats the hazardous secondary material determines that a piece of equipment contains or contacts a hazardous secondary material with organic concentrations at least ten (10) percent by weight, the determination can be revised only after following the procedures in paragraph (d)(1) or (2) of this section.

(f) When a remanufacturer or other person that stores or treats the hazardous secondary material and the Department do not agree on whether a piece of equipment contains or contacts a hazardous secondary material with organic concentrations at least ten (10) percent by weight, the procedures in paragraph (d)(1) or (2) of this section can be used to resolve the dispute.

(g) Samples used in determining the percent organic content shall be representative of the highest total organic content hazardous secondary material that is expected to be contained in or contact the equipment.

(h) To determine if pumps or valves are in light liquid service, the vapor pressures of constituents may be obtained from standard reference texts or may be determined by ASTM D-2879-86 (incorporated by reference under section 260.11).

(i) Performance tests to determine if a control device achieves ninety-five (95) weight percent organic emission reduction shall comply with the procedures of section 261.1034(c)(1) through (4).

#### **261.1064. Recordkeeping requirements.**

(a)(1) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(2) A remanufacturer or other person that stores or treats the hazardous secondary material in more than one (1) hazardous secondary material management unit subject to the provisions of this subpart may comply with the recordkeeping requirements for these hazardous secondary material management units in one (1) recordkeeping system if the system identifies each record by each hazardous secondary material management unit.

(b) Remanufacturer’s and other person’s that store or treat the hazardous secondary material must record and keep the following information at the facility:

(1) For each piece of equipment to which R.61-79.261 subpart BB applies:



(i) Equipment identification number and hazardous secondary material management unit identification.

(ii) Approximate locations within the facility (e.g., identify the hazardous secondary material management unit on a facility plot plan).

(iii) Type of equipment (e.g., a pump or pipeline valve).

(iv) Percent-by-weight total organics in the hazardous secondary material stream at the equipment.

(v) Hazardous secondary material state at the equipment (e.g., gas/vapor or liquid).

(vi) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).

(2) For facilities that comply with the provisions of section 261.1033(a)(2), an implementation schedule as specified in section 261.1033(a)(2).

(3) Where a remanufacturer or other person that stores or treats the hazardous secondary material chooses to use test data to demonstrate the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan as specified in section 261.1035(b)(3).

(4) Documentation of compliance with section 261.1060, including the detailed design documentation or performance test results specified in section 261.1035(b)(4).

(c) When each leak is detected as specified in sections 261.1052, 261.1053, 261.1057, and 261.1058, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, the date evidence of a potential leak was found in accordance with section 261.1058(a), and the date the leak was detected, shall be attached to the leaking equipment.

(2) The identification on equipment, except on a valve, may be removed after it has been repaired.

(3) The identification on a valve may be removed after it has been monitored for two (2) successive months as specified in section 261.1057(c) and no leak has been detected during those two (2) months.

(d) When each leak is detected as specified in sections 261.1052, 261.1053, 261.1057, and 261.1058, the following information shall be recorded in an inspection log and shall be kept at the facility:

(1) The instrument and operator identification numbers and the equipment identification number.

(2) The date evidence of a potential leak was found in accordance with section 261.1058(a).

(3) The date the leak was detected and the dates of each attempt to repair the leak.

(4) Repair methods applied in each attempt to repair the leak.

(5) “Above 10,000” if the maximum instrument reading measured by the methods specified in section 261.1063(b) after each repair attempt is equal to or greater than ten thousand (10,000) ppm.

(6) “Repair delayed” and the reason for the delay if a leak is not repaired within fifteen (15) calendar days after discovery of the leak.

(7) Documentation supporting the delay of repair of a valve in compliance with section 261.1059(c).

(8) The signature of the remanufacturer or other person that stores or treats the hazardous secondary material (or designate) whose decision it was that repair could not be effected without a hazardous secondary material management unit shutdown.

(9) The expected date of successful repair of the leak if a leak is not repaired within fifteen (15) calendar days.

(10) The date of successful repair of the leak.

(e) Design documentation and monitoring, operating, and inspection information for each closed-vent system and control device required to comply with the provisions of section 261.1060 shall be recorded and kept up-to-date at the facility as specified in section 261.1035(c). Design documentation is specified in section 261.1035(c)(1) and (2) and monitoring, operating, and inspection information in section 261.1035(c)(3) through (8).

(f) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system, the Department will specify the appropriate recordkeeping requirements.

(g) The following information pertaining to all equipment subject to the requirements in sections 261.1052 through 261.1060 shall be recorded in a log that is kept at the facility:

(1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this subpart.

(2)(i) A list of identification numbers for equipment that the remanufacturer or other person that stores or treats the hazardous secondary material elects to designate for no detectable emissions, as indicated by an instrument reading of less than five hundred (500) ppm above background, under the provisions of sections 261.1052(e), 261.1053(i), and 261.1057(f).

(ii) The designation of this equipment as subject to the requirements of sections 261.1052(e), 261.1053(i), or 261.1057(f) shall be signed by the remanufacturer or other person that stores or treats the hazardous secondary material.

(3) A list of equipment identification numbers for pressure relief devices required to comply with section 261.1054(a).

(4)(i) The dates of each compliance test required in sections 261.1052(e), 261.1053(i), 261.1054, and 261.1057(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(5) A list of identification numbers for equipment in vacuum service.

(6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous secondary material with an organic concentration of at least ten (10) percent by weight for less than three hundred (300) hours per calendar year.

(h) The following information pertaining to all valves subject to the requirements of section 261.1057(g) and (h) shall be recorded in a log that is kept at the facility:

(1) A list of identification numbers for valves that are designated as unsafe to monitor, an explanation for each valve stating why the valve is unsafe to monitor, and the plan for monitoring each valve.

(2) A list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the planned schedule for monitoring each valve.

(i) The following information shall be recorded in a log that is kept at the facility for valves complying with section 261.1062:

(1) A schedule of monitoring.

(2) The percent of valves found leaking during each monitoring period.

(j) The following information shall be recorded in a log that is kept at the facility:

(1) Criteria required in sections 261.1052(d)(5)(ii) and 261.1053(e)(2) and an explanation of the design criteria.

(2) Any changes to these criteria and the reasons for the changes.

(k) The following information shall be recorded in a log that is kept at the facility for use in determining exemptions as provided in the applicability section of this subpart and other specific subparts:

(1) An analysis determining the design capacity of the hazardous secondary material management unit.

(2) A statement listing the hazardous secondary material influent to and effluent from each hazardous secondary material management unit subject to the requirements in sections 261.1052 through 261.1060 and an analysis determining whether these hazardous secondary materials are heavy liquids.

(3) An up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in sections 261.1052 through 261.1060. The record shall include supporting documentation as required by section 261.1063(d)(3) when application of the knowledge of the nature of the hazardous secondary material stream or the process by which it was produced is used. If the remanufacturer or other person that stores or treats the hazardous secondary material takes any action (e.g., changing the process that produced the material) that could result in an increase in the total organic content of the material contained in or contacted by equipment determined not to be subject to the requirements in sections 261.1052 through 261.1060, then a new determination is required.

(l) Records of the equipment leak information required by paragraph (d) of this section and the operating information required by paragraph (e) of this section need be kept only three (3) years.

(m) The remanufacturer or other person that stores or treats the hazardous secondary material at a facility with equipment that is subject to this subpart and to regulations at 40 CFR part 60, part 61, or part 63 may

elect to determine compliance with this subpart either by documentation pursuant to section 261.1064, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available at the facility.

**261.1065. [Reserved]**

**261.1066. [Reserved]**

**261.1067. [Reserved]**

**261.1068. [Reserved]**

**261.1069. [Reserved]**

**261.1070. [Reserved]**

**261.1071. [Reserved]**

**261.1072. [Reserved]**

**261.1073. [Reserved]**

**261.1074. [Reserved]**

**261.1075. [Reserved]**

**261.1076. [Reserved]**

**261.1077. [Reserved]**

**261.1078. [Reserved]**

**261.1079. [Reserved]**

**Add 61-79.261 Subpart CC to read:**

**Subpart CC: Air Emission Standards for Tanks and Containers**

**261.1080. Applicability.**

(a) The regulations in this subpart apply to tanks and containers that contain hazardous secondary materials excluded under the remanufacturing exclusion at section 261.4(a)(27), unless the tanks and containers are equipped with and operating air emission controls in accordance with the requirements of applicable Clean Air Act regulations codified under 40 CFR part 60, part 61, or part 63.

(b) [Reserved]

**261.1081. Definitions.**

As used in this subpart, all terms not defined herein shall have the meaning given to them in the South Carolina Hazardous Waste Management Act and R.61-79.260 through 266.

**“Average volatile organic concentration or average VO concentration”** means the mass-weighted average volatile organic concentration of a hazardous secondary material as determined in accordance with the requirements of section 261.1084.

**“Closure device”** means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

**“Continuous seal”** means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

**“Cover”** means a device that provides a continuous barrier over the hazardous secondary material managed in a unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

**“Empty hazardous secondary material container”** means:

(1) A container from which all hazardous secondary materials have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner;

(2) A container that is less than or equal to one hundred nineteen (119) gallons in size and no more than three (3) percent by weight of the total capacity of the container remains in the container or inner liner;  
or

(3) A container that is greater than one hundred nineteen (119) gallons in size and no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner.

**“Enclosure”** means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

**“External floating roof”** means a pontoon-type or double-deck type cover that rests on the surface of the material managed in a tank with no fixed roof.

**“Fixed roof”** means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

**“Floating membrane cover”** means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous secondary material being managed in a surface impoundment.

**“Floating roof”** means a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the material being contained, and is equipped with a continuous seal.

**“Hard-piping”** means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

**“In light material service”** means the container is used to manage a material for which both of the following conditions apply: The vapor pressure of one (1) or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at twenty degrees Celsius (20°C); and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than twenty (20) percent by weight.

**“Internal floating roof”** means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

**“Liquid-mounted seal”** means a foam or liquid-filled primary seal mounted in contact with the hazardous secondary material between the tank wall and the floating roof continuously around the circumference of the tank.

**“Malfunction”** means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

**“Material determination”** means performing all applicable procedures in accordance with the requirements of section 261.1084 to determine whether a hazardous secondary material meets standards specified in this subpart. Examples of a material determination include performing the procedures in accordance with the requirements of section 261.1084 of this subpart to determine the average VO concentration of a hazardous secondary material at the point of material origination; the average VO concentration of a hazardous secondary material at the point of material treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous secondary material; the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous secondary material and comparing the results to the applicable standards; or the maximum volatile organic vapor pressure for a hazardous secondary material in a tank and comparing the results to the applicable standards.

**“Maximum organic vapor pressure”** means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank, at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining materials, etc.) reasonably expected to occur in the tank. For the purpose of this subpart, maximum organic vapor pressure is determined using the procedures specified in section 261.1084(c).

**“Metallic shoe seal”** means a continuous seal that is constructed of metal sheets which are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

**“No detectable organic emissions”** means no escape of organics to the atmosphere as determined using the procedure specified in section 261.1084(d).

**“Point of material origination”** means as follows:

(1) When the remanufacturer or other person that stores or treats the hazardous secondary material is the generator of the hazardous secondary material, the point of material origination means the point where a material produced by a system, process, or material management unit is determined to be a hazardous secondary material excluded under section 261.4(a)(27).

Note to paragraph (1) of the definition of “Point of material origination”: In this case, this term is being used in a manner similar to the use of the term “point of generation” in air standards established under authority of the Clean Air Act in 40 CFR parts 60, 61, and 63.

(2) When the remanufacturer or other person that stores or treats the hazardous secondary material is not the generator of the hazardous secondary material, point of material origination means the point where the remanufacturer or other person that stores or treats the hazardous secondary material accepts delivery or takes possession of the hazardous secondary material.

“Safety device” means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this subpart, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the remanufacturer or other person that stores or treats the hazardous secondary material based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

“Single-seal system” means a floating roof having one (1) continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

“Vapor-mounted seal” means a continuous seal that is mounted such that there is a vapor space between the hazardous secondary material in the unit and the bottom of the seal.

“Volatile organic concentration” or “VO concentration” means the fraction by weight of the volatile organic compounds contained in a hazardous secondary material expressed in terms of parts per million by weight (ppmw) as determined by direct measurement or by knowledge of the material in accordance with the requirements of section 261.1084. For the purpose of determining the VO concentration of a hazardous secondary material, organic compounds with a Henry’s law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in the liquid-phase (0.1 Y/X) (which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at twenty-five degrees Celsius (25°C) must be included.

#### **261.1082. Standards: General.**

(a) This section applies to the management of hazardous secondary material in tanks and containers subject to this subpart.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from each hazardous secondary material management unit in accordance with

standards specified in sections 261.1084 through 261.1087, as applicable to the hazardous secondary material management unit, except as provided for in paragraph (c) of this section.

(c) A tank or container is exempt from standards specified in sections 261.1084 through 261.1087, as applicable, provided that the hazardous secondary material management unit is a tank or container for which all hazardous secondary material entering the unit has an average VO concentration at the point of material origination of less than five hundred (500) parts per million by weight (ppmw). The average VO concentration shall be determined using the procedures specified in section 261.1083(a) of this subpart. The remanufacturer or other person that stores or treats the hazardous secondary material shall review and update, as necessary, this determination at least once every twelve (12) months following the date of the initial determination for the hazardous secondary material streams entering the unit.

### **261.1083. Material determination procedures.**

(a) Material determination procedure to determine average volatile organic (VO) concentration of a hazardous secondary material at the point of material origination.

(1) Determining average VO concentration at the point of material origination. A remanufacturer or other person that stores or treats the hazardous secondary material shall determine the average VO concentration at the point of material origination for each hazardous secondary material placed in a hazardous secondary material management unit exempted under the provisions of section 261.1082(c)(1) from using air emission controls in accordance with standards specified in sections 261.1084 through 261.1087, as applicable to the hazardous secondary material management unit.

(i) An initial determination of the average VO concentration of the material stream shall be made before the first time any portion of the material in the hazardous secondary material stream is placed in a hazardous secondary material management unit exempted under the provisions of section 261.1082(c)(1) of this subpart from using air emission controls, and thereafter an initial determination of the average VO concentration of the material stream shall be made for each averaging period that a hazardous secondary material is managed in the unit; and

(ii) Perform a new material determination whenever changes to the source generating the material stream are reasonably likely to cause the average VO concentration of the hazardous secondary material to increase to a level that is equal to or greater than the applicable VO concentration limits specified in section 261.1082.

(2) Determination of average VO concentration using direct measurement or knowledge. For a material determination that is required by paragraph (a)(1) of this section, the average VO concentration of a hazardous secondary material at the point of material origination shall be determined using either direct measurement as specified in paragraph (a)(3) of this section or by knowledge as specified in paragraph (a)(4) of this section.

(3) Direct measurement to determine average VO concentration of a hazardous secondary material at the point of material origination—

(i) Identification. The remanufacturer or other person that stores or treats the hazardous secondary material shall identify and record in a log that is kept at the facility the point of material origination for the hazardous secondary material.

(ii) Sampling. Samples of the hazardous secondary material stream shall be collected at the point of material origination in a manner such that volatilization of organics contained in the material and in the



subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

(A) The averaging period to be used for determining the average VO concentration for the hazardous secondary material stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the remanufacturer or other person that stores or treats the hazardous secondary material determines is appropriate for the hazardous secondary material stream but shall not exceed one (1) year.

(B) A sufficient number of samples, but no less than four (4) samples, shall be collected and analyzed for a hazardous secondary material determination. All of the samples for a given material determination shall be collected within a one-hour period. The average of the four or more sample results constitutes a material determination for the material stream. One (1) or more material determinations may be required to represent the complete range of material compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous secondary material stream. Examples of such normal variations are seasonal variations in material quantity or fluctuations in ambient temperature.

(C) All samples shall be collected and handled in accordance with written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous secondary material stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained at the facility. An example of acceptable sample collection and handling procedures for a total volatile organic constituent concentration may be found in Method 25D in 40 CFR part 60, appendix A.

(D) Sufficient information, as specified in the “site sampling plan” required under paragraph (a)(3)(ii)(C) of this section, shall be prepared and recorded to document the material quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous secondary material represented by the samples.

(iii) Analysis. Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR part 60, appendix A for the total concentration of volatile organic constituents, or using one (1) or more methods when the individual organic compound concentrations are identified and summed and the summed material concentration accounts for and reflects all organic compounds in the material with Henry’s law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>] at twenty-five degrees Celsius (25°C). At the discretion of the remanufacturer or other person that stores or treats the hazardous secondary material, the test data obtained may be adjusted by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry’s law constant value of less than 0.1 Y/X at 25°C). To adjust these data, the measured concentration of each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor ( $f_{m25D}$ ). If the remanufacturer or other person that stores or treats the hazardous secondary material elects to adjust the test data, the adjustment must be made to all individual chemical constituents with a Henry’s law constant value greater than or equal to 0.1 Y/X at 25°C) contained in the material. Constituent-specific adjustment factors ( $f_{m25D}$ ) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in paragraph (a)(3)(iii)(A) or (B) of this section and provided the requirement to reflect all organic compounds in the material with Henry’s law

constant values greater than or equal to 0.1 Y/X [which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>] at 25°C), is met.

(A) Any EPA standard method that has been validated in accordance with “Alternative Validation Procedure for EPA Waste and Wastewater Methods,” 40 CFR part 63, appendix D.

(B) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

(iv) Calculations.

(A) The average VO concentration (C) on a mass-weighted basis shall be calculated by using the results for all material determinations conducted in accordance with paragraphs (a)(3)(ii) and (iii) of this section and the following equation

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

Where:

$\bar{C}$  = Average VO concentration of the hazardous secondary material at the point of material origination on a mass-weighted basis, ppmw.

i = Individual material determination “i” of the hazardous secondary material.

n = Total number of material determinations of the hazardous secondary material conducted for the averaging period (not to exceed one (1) year).

$Q_i$  = Mass quantity of hazardous secondary material stream represented by  $C_i$ , kg/hr.

$Q_T$  = Total mass quantity of hazardous secondary material during the averaging period, kg/hr.

$C_i$  = Measured VO concentration of material determination “i” as determined in accordance with the requirements of paragraph (a)(3)(iii) of this section (i.e., the average of the four or more samples specified in paragraph (a)(3)(ii)(B) of this section), ppmw.

(B) For the purpose of determining  $C_i$ , for individual material samples analyzed in accordance with paragraph (a)(3)(iii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

(1) If Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A.

(2) If any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the material that has a Henry’s law constant values at least 0.1

mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>] at twenty-five degrees Celsius (25°C).

(4) Use of knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material to determine average VO concentration of a hazardous secondary material at the point of material origination.

(i) Documentation shall be prepared that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material of the hazardous secondary material stream's average VO concentration. Examples of information that may be used as the basis for knowledge include: Material balances for the source or process generating the hazardous secondary material stream; constituent-specific chemical test data for the hazardous secondary material stream from previous testing that are still applicable to the current material stream; previous test data for other locations managing the same type of material stream; or other knowledge based on information included in shipping papers or material certification notices.

(ii) If test data are used as the basis for knowledge, then the remanufacturer or other person that stores or treats the hazardous secondary material shall document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VO concentration. For example, a remanufacturer or other person that stores or treats the hazardous secondary material may use organic concentration test data for the hazardous secondary material stream that are validated in accordance with Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the material.

(iii) A remanufacturer or other person that stores or treats the hazardous secondary material using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous secondary material may adjust the test data to the corresponding average VO concentration value which would have been obtained had the material samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration for each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor ( $f_{m25D}$ ).

(iv) In the event that the Department and the remanufacture or other person that stores or treats the hazardous secondary material disagree on a determination of the average VO concentration for a hazardous secondary material stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in paragraph (a)(3) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Department may perform or request that the remanufacturer or other person that stores or treats the hazardous secondary material perform this determination using direct measurement. The remanufacturer or other person that stores or treats the hazardous secondary material may choose one (1) or more appropriate methods to analyze each collected sample in accordance with the requirements of paragraph (a)(3)(iii) of this section.

(b) [Reserved]

(c) Procedure to determine the maximum organic vapor pressure of a hazardous secondary material in a tank.

(1) A remanufacturer or other person that stores or treats the hazardous secondary material shall determine the maximum organic vapor pressure for each hazardous secondary material placed in a tank using Tank Level 1 controls in accordance with standards specified in section 261.1084(c).

(2) A remanufacturer or other person that stores or treats the hazardous secondary material shall use either direct measurement as specified in paragraph (c)(3) of this section or knowledge of the waste as specified by paragraph (c)(4) of this section to determine the maximum organic vapor pressure which is representative of the hazardous secondary material composition stored or treated in the tank.

(3) Direct measurement to determine the maximum organic vapor pressure of a hazardous secondary material.

(i) Sampling. A sufficient number of samples shall be collected to be representative of the hazardous secondary material contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous secondary material are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained at the facility. An example of acceptable sample collection and handling procedures may be found in Method 25D in 40 CFR part 60, appendix A.

(ii) Analysis. Any one (1) of the appropriate following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous secondary material:

(A) Method 25E in 40 CFR part 60 appendix A;

(B) Methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," (incorporated by reference—refer to section 260.11 of this chapter);

(C) Methods obtained from standard reference texts;

(D) ASTM Method 2879-92 (incorporated by reference—refer to section 260.11); and

(E) Any other method approved by the Department.

(4) Use of knowledge to determine the maximum organic vapor pressure of the hazardous secondary material. Documentation shall be prepared and recorded that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material that the maximum organic vapor pressure of the hazardous secondary material is less than the maximum vapor pressure limit listed in section 261.1085(b)(1)(i) for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous secondary material is generated by a process for which at other locations it previously has been determined by direct measurement that the hazardous secondary material's waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

(d) Procedure for determining no detectable organic emissions for the purpose of complying with this subpart:

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: The interface of the cover and its foundation

mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure relief valve.

(2) The test shall be performed when the unit contains a hazardous secondary material having an organic concentration representative of the range of concentrations for the hazardous secondary material expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous secondary material placed in the hazardous secondary management unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than ten (10) ppmv hydrocarbon in air), and

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, ten thousand (10,000) ppmv methane or n-hexane.

(6) The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of five hundred (500) ppmv except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison shall be as specified in paragraph (d)(9) of this section. If the difference is less than five hundred (500) ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

(9) For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of ten thousand (10,000) ppmw. If the difference is less than ten thousand (10,000) ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

#### **261.1084. Standards: Tanks.**

(a) The provisions of this section apply to the control of air pollutant emissions from tanks for which section 261.1082(b) subpart references the use of this section for such air emission control.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from each tank subject to this section in accordance with the following requirements as applicable:

(1) For a tank that manages hazardous secondary material that meets all of the conditions specified in paragraphs (b)(1)(i) through (iii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in paragraph (c) of this section or the Tank Level 2 controls specified in paragraph (d) of this section.

(i) The hazardous secondary material in the tank has a maximum organic vapor pressure which is less than the maximum organic vapor pressure limit for the tank's design capacity category as follows:

(A) For a tank design capacity equal to or greater than one hundred fifty-one cubic meters (151 m<sup>3</sup>), the maximum organic vapor pressure limit for the tank is 5.2 kilopascals (kPa).

(B) For a tank design capacity equal to or greater than seventy-five (75) m<sup>3</sup> but less than one hundred fifty-one (151) m<sup>3</sup>, the maximum organic vapor pressure limit for the tank is 27.6 kPa.

(C) For a tank design capacity less than seventy-five (75) m<sup>3</sup>, the maximum organic vapor pressure limit for the tank is 76.6 kPa.

(ii) The hazardous secondary material in the tank is not heated by the remanufacturer or other person that stores or treats the hazardous secondary material to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous secondary material is determined for the purpose of complying with paragraph (b)(1)(i) of this section.

(2) For a tank that manages hazardous secondary material that does not meet all of the conditions specified in paragraphs (b)(1)(i) through (iii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section. An example of tanks required to use Tank Level 2 controls is a tank for which the hazardous secondary material in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category as specified in paragraph (b)(1)(i) of this section.

(c) Remanufacturers or other persons that store or treats the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in paragraphs (c)(1) through (4) of this section:

(1) The remanufacturer or other person that stores or treats that hazardous secondary material shall determine the maximum organic vapor pressure for a hazardous secondary material to be managed in the tank using Tank Level 1 controls before the first time the hazardous secondary material is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in section 261.1083(c) of this subpart. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform a new determination whenever changes to the hazardous secondary material managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in paragraph (b)(1)(i) of this section, as applicable to the tank.

(2) The tank shall be equipped with a fixed roof designed to meet the following specifications:

(i) The fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the hazardous secondary material in the tank. The fixed roof may be a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch).

(ii) The fixed roof shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.

(iii) Each opening in the fixed roof, and any manifold system associated with the fixed roof, shall be either:

(A) Equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

(B) Connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and shall be operating whenever hazardous secondary material is managed in the tank, except as provided for in paragraphs (c)(2)(iii)(B)(1) and (2) of this section.

(1) During periods when it is necessary to provide access to the tank for performing the activities of paragraph (c)(2)(iii)(B)(2) of this section, venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operation of the control device.

(2) During periods of routine inspection, maintenance, or other activities needed for normal operations, and for removal of accumulated sludge or other residues from the bottom of the tank.

(iv) The fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include: organic vapor permeability, the effects of any contact with the hazardous secondary material or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.

(3) Whenever a hazardous secondary material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position except as follows:

(i) Opening of closure devices or removal of the fixed roof is allowed at the following times:

(A) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(B) To remove accumulated sludge or other residues from the bottom of tank.

(ii) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere is allowed during normal operations for the purpose of maintaining the tank internal pressure in accordance with the tank design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the tank internal pressure is within the internal pressure operating range determined by the remanufacturer or other person that stores or treats the hazardous secondary material based on the tank manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or diurnal ambient temperature fluctuations.

(iii) Opening of a safety device, as defined in section 261.1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(4) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the air emission control equipment in accordance with the following requirements.

(i) The fixed roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once every year except under the special conditions provided for in paragraph (l) of this section.

(iii) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (k) of this section.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in section 261.1089(b) of this subpart.

(d) Remanufacturers or other persons that store or treat the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one (1) of the following tanks:

(1) A fixed-roof tank equipped with an internal floating roof in accordance with the requirements specified in paragraph (e) of this section;

(2) A tank equipped with an external floating roof in accordance with the requirements specified in paragraph (f) of this section;

(3) A tank vented through a closed-vent system to a control device in accordance with the requirements specified in paragraph (g) of this section;



(4) A pressure tank designed and operated in accordance with the requirements specified in paragraph (h) of this section; or

(5) A tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in paragraph (i) of this section.

(e) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank using a fixed roof with an internal floating roof shall meet the requirements specified in paragraphs (e)(1) through (3) of this section.

(1) The tank shall be equipped with a fixed roof and an internal floating roof in accordance with the following requirements:

(i) The internal floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports.

(ii) The internal floating roof shall be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:

(A) A single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in section 261.1081; or

(B) Two (2) continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal.

(iii) The internal floating roof shall meet the following specifications:

(A) Each opening in a noncontact internal floating roof except for automatic bleeder vents (vacuum breaker vents) and the rim space vents is to provide a projection below the liquid surface.

(B) Each opening in the internal floating roof shall be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains.

(C) Each penetration of the internal floating roof for the purpose of sampling shall have a slit fabric cover that covers at least ninety (90) percent of the opening.

(D) Each automatic bleeder vent and rim space vent shall be gasketed.

(E) Each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover.

(F) Each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall operate the tank in accordance with the following requirements:

(i) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical.

(ii) Automatic bleeder vents are to be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

(iii) Prior to filling the tank, each cover, access hatch, gauge float well or lid on any opening in the internal floating roof shall be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the internal floating roof in accordance with the procedures specified as follows:

(i) The floating roof and its closure devices shall be visually inspected by the remanufacture or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include, but are not limited to: The internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous secondary material surface from the atmosphere; or the slotted membrane has more than ten (10) percent open area.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the internal floating roof components as follows except as provided in paragraph (e)(3)(iii) of this section:

(A) Visually inspect the internal floating roof components through openings on the fixed-roof (e.g., manholes and roof hatches) at least once every twelve (12) months after initial fill, and

(B) Visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every ten (10) years.

(iii) As an alternative to performing the inspections specified in paragraph (e)(3)(ii) of this section for an internal floating roof equipped with two (2) continuous seals mounted one above the other, the remanufacturer or other person that stores or treats the hazardous secondary material may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every five (5) years.

(iv) Prior to each inspection required by paragraph (e)(3)(ii) or (iii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the Department in advance of each inspection to provide the Department with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous secondary material shall notify the Department of the date and location of the inspection as follows:

(A) Prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Department at least thirty (30) calendar days before refilling the tank except when an inspection is not planned as provided for in paragraph (e)(3)(iv)(B) of this section.

(B) When a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection thirty (30) calendar days before refilling the tank, the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the Department as soon as possible, but no later than seven (7) calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Department at least seven (7) calendar days before refilling the tank.

(v) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (k) of this section.

(vi) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in section 261.1089(b).

(4) Safety devices, as defined in section 261.1081, may be installed and operated as necessary on any tank complying with the requirements of paragraph (e) of this section.

(f) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank using an external floating roof shall meet the requirements specified in paragraphs (f)(1) through (3) of this section.

(1) The remanufacturer or other person that stores or treats the hazardous secondary material shall design the external floating roof in accordance with the following requirements:

(i) The external floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports.

(ii) The floating roof shall be equipped with two (2) continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal.

(A) The primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in section 261.1081. The total area of the gaps between the tank wall and the primary seal shall not exceed two hundred twelve square centimeters (212 cm<sup>2</sup>) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least sixty-one (61) cm above the liquid surface.

(B) The secondary seal shall be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal shall not exceed 21.2 cm<sup>2</sup> per meter of tank diameter, and the width of any portion of these gaps shall not exceed 1.3 cm.

(iii) The external floating roof shall meet the following specifications:

(A) Except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface.

(B) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid.

(C) Each access hatch and each gauge float well shall be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position.

(D) Each automatic bleeder vent and each rim space vent shall be equipped with a gasket.

(E) Each roof drain that empties into the liquid managed in the tank shall be equipped with a slotted membrane fabric cover that covers at least ninety (90) percent of the area of the opening.

(F) Each unslotted and slotted guide pole well shall be equipped with a gasketed sliding cover or a flexible fabric sleeve seal.

(G) Each unslotted guide pole shall be equipped with a gasketed cap on the end of the pole.

(H) Each slotted guide pole shall be equipped with a gasketed float or other device which closes off the liquid surface from the atmosphere.

(I) Each gauge hatch and each sample well shall be equipped with a gasketed cover.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall operate the tank in accordance with the following requirements:

(i) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical.

(ii) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be secured and maintained in a closed position at all times except when the closure device must be open for access.

(iii) Covers on each access hatch and each gauge float well shall be bolted or fastened when secured in the closed position.

(iv) Automatic bleeder vents shall be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

(v) Rim space vents shall be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting.

(vi) The cap on the end of each unslotted guide pole shall be secured in the closed position at all times except when measuring the level or collecting samples of the liquid in the tank.

(vii) The cover on each gauge hatch or sample well shall be secured in the closed position at all times except when the hatch or well must be opened for access.

(viii) Both the primary seal and the secondary seal shall completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the external floating roof in accordance with the procedures specified as follows:

(i) The remanufacturer or other person that stores or treats the hazardous secondary material shall measure the external floating roof seal gaps in accordance with the following requirements:

(A) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform measurements of gaps between the tank wall and the primary seal within sixty (60) calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every five (5) years.

(B) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform measurements of gaps between the tank wall and the secondary seal within sixty (60) calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every year.

(C) If a tank ceases to hold hazardous secondary material for a period of one (1) year or more, subsequent introduction of hazardous secondary material into the tank shall be considered an initial operation for the purposes of paragraphs (f)(3)(i)(A) and (B) of this section.

(D) The remanufacturer or other person that stores or treats the hazardous secondary material shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the following procedure:

(1) The seal gap measurements shall be performed at one (1) or more floating roof levels when the roof is floating off the roof supports.

(2) Seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter (cm) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location.

(3) For a seal gap measured under paragraph (f)(3) of this section, the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance.

(4) The total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in paragraph (f)(1)(ii) of this section.

(E) In the event that the seal gap measurements do not conform to the specifications in paragraph (f)(1)(ii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (k) of this section.

(F) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in section 261.1089(b).

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the external floating roof in accordance with the following requirements:

(A) The floating roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include, but are not limited to: Holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(B) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once every year except for the special conditions provided for in paragraph (l) of this section.

(C) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (k) of this section.

(D) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in section 261.1089(b).

(iii) Prior to each inspection required by paragraph (f)(3)(i) or (ii) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the Department in advance of each inspection to provide the Department with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous secondary material shall notify the Department of the date and location of the inspection as follows:

(A) Prior to each inspection to measure external floating roof seal gaps as required under paragraph (f)(3)(i) of this section, written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Department at least thirty (30) calendar days before the date the measurements are scheduled to be performed.

(B) Prior to each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Department at least thirty (30) calendar days before refilling the tank except when an inspection is not planned as provided for in paragraph (f)(3)(iii)(C) of this section.

(C) When a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection thirty (30) calendar days before refilling the tank, the owner or operator shall notify the Department as soon as possible, but no later than seven (7) calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Department at least seven (7) calendar days before refilling the tank.

(4) Safety devices, as defined in section 261.1081, may be installed and operated as necessary on any tank complying with the requirements of paragraph (f) of this section.

(g) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank by venting the tank to a control device shall meet the requirements specified in paragraphs (g)(1) through (3) of this section.

(1) The tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:

(i) The fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the tank.

(ii) Each opening in the fixed roof not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions.

(iii) The fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include: Organic vapor permeability, the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.

(iv) The closed-vent system and control device shall be designed and operated in accordance with the requirements of section 261.1087.

(2) Whenever a hazardous secondary material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:

(i) Venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

(A) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(B) To remove accumulated sludge or other residues from the bottom of a tank.

(ii) Opening of a safety device, as defined in section 261.1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the air emission control equipment in accordance with the following procedures:

(i) The fixed roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(ii) The closed-vent system and control device shall be inspected and monitored by the remanufacturer or other person that stores or treats the hazardous secondary material in accordance with the procedures specified in section 261.1087.

(iii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once every year except for the special conditions provided for in paragraph (l) of this section.

(iv) In the event that a defect is detected, the remanufacture or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (k) of this section.

(v) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in section 261.1089(b).

(h) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions by using a pressure tank shall meet the following requirements.

(1) The tank shall be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity.

(2) All tank openings shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in section 261.1083(d).

(3) Whenever a hazardous secondary material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either or the following conditions as specified in paragraph (h)(3)(i) or (h)(3)(ii) of this section.

(i) At those times when opening of a safety device, as defined in section 261.1081, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of section 261.1087.

(i) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in paragraphs (i)(1) through (4) of this section.

(1) The tank shall be located inside an enclosure. The enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T—Criteria for and



Verification of a Permanent or Temporary Total Enclosure” under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The remanufacturer or other person that stores or treats the hazardous secondary material shall perform the verification procedure for the enclosure as specified in Section 5.0 to “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually.

(2) The enclosure shall be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in section 261.1087.

(3) Safety devices, as defined in section 261.1081, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of paragraphs (i)(1) and (2) of this section.

(4) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the closed-vent system and control device as specified in section 261.1087.

(j) The remanufacturer or other person that stores or treats the hazardous secondary material shall transfer hazardous secondary material to a tank subject to this section in accordance with the following requirements:

(1) Transfer of hazardous secondary material, except as provided in paragraph (j)(2) of this section, to the tank from another tank subject to this section shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous secondary material to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems.

(2) The requirements of paragraph (j)(1) of this section do not apply when transferring a hazardous secondary material to the tank under any of the following conditions:

(i) The hazardous secondary material meets the average VO concentration conditions specified in section 261.1082(c)(1) at the point of material origination.

(ii) The hazardous secondary material has been treated by an organic destruction or removal process to meet the requirements in section 261.1082(c)(2).

(iii) The hazardous secondary material meets the requirements of section 261.1082(c)(4).

(k) The remanufacturer or other person that stores or treats the hazardous secondary material shall repair each defect detected during an inspection performed in accordance with the requirements of paragraph (c)(4), (e)(3), (f)(3), or (g)(3) of this section as follows:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material shall make first efforts at repair of the defect no later than five (5) calendar days after detection, and repair shall be completed as soon as possible but no later than forty-five (45) calendar days after detection except as provided in paragraph (k)(2) of this section.

(2) Repair of a defect may be delayed beyond forty-five (45) calendar days if the remanufacturer or other person that stores or treats the hazardous secondary material determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the hazardous secondary material normally managed in the tank. In this case, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect the next time the process or unit that is generating the hazardous secondary material managed in the tank stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

(1) Following the initial inspection and monitoring of the cover as required by the applicable provisions of this subpart, subsequent inspection and monitoring may be performed at intervals longer than one (1) year under the following special conditions:

(1) In the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the remanufacturer or other person that stores or treats the hazardous secondary material may designate a cover as an “unsafe to inspect and monitor cover” and comply with all of the following requirements:

(i) Prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required.

(ii) Develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable section of this subpart, as frequently as practicable during those times when a worker can safely access the cover.

(2) In the case when a tank is buried partially or entirely underground, a remanufacturer or other person that stores or treats the hazardous secondary material is required to inspect and monitor, as required by the applicable provisions of this section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

#### **261.1085. [Reserved]**

#### **261.1086. Standards: Containers.**

(a) Applicability. The provisions of this section apply to the control of air pollutant emissions from containers for which section 261.1082(b) references the use of this section for such air emission control.

(b) General requirements.

(1) The remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from each container subject to this section in accordance with the following requirements, as applicable to the container.

(i) For a container having a design capacity greater than 0.1 cubic meters (m<sup>3</sup>) and less than or equal to 0.46 m<sup>3</sup>, the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in paragraph (c) of this section.

(ii) For a container having a design capacity greater than 0.46 m<sup>3</sup> that is not in light material service, the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in paragraph (c) of this section.

(iii) For a container having a design capacity greater than 0.46 m<sup>3</sup> that is in light material service, the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in paragraph (d) of this section.

(2) [Reserved]

(c) Container Level 1 standards.

(1) A container using Container Level 1 controls is one of the following:

(i) A container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation as specified in paragraph (f) of this section.

(ii) A container equipped with a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap).

(iii) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous secondary material in the container such that no hazardous secondary material is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.

(2) A container used to meet the requirements of paragraph (c)(1)(ii) or (iii) of this section shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous secondary material to the atmosphere and to maintain the equipment integrity, for as long as the container is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices shall include: Organic vapor permeability; the effects of contact with the hazardous secondary material or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.

(3) Whenever a hazardous secondary material is in a container using Container Level 1 controls, the remanufacturer or other person that stores or treats the hazardous secondary material shall install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:

(i) Opening of a closure device or cover is allowed for the purpose of adding hazardous secondary material or other material to the container as follows:

(A) In the case when the container is filled to the intended final level in one continuous operation, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.

(B) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install covers, as

applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within fifteen (15) minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the hazardous secondary material being added to the container, whichever condition occurs first.

(ii) Opening of a closure device or cover is allowed for the purpose of removing hazardous secondary material from the container as follows:

(A) For the purpose of meeting the requirements of this section, an empty hazardous secondary material container may be open to the atmosphere at any time (i.e., covers and closure devices on such a container are not required to be secured in the closed position).

(B) In the case when discrete quantities or batches of material are removed from the container, but the container is not an empty hazardous secondary material container, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within fifteen (15) minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

(iii) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous secondary material. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

(iv) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the remanufacturer or other persons that stores or treats the hazardous secondary material based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.

(v) Opening of a safety device, as defined in section 261.1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(4) The remanufacturer or other person that stores or treats the hazardous secondary material using containers with Container Level 1 controls shall inspect the containers and their covers and closure devices as follows:

(i) In the case when a hazardous secondary material already is in the container at the time the remanufacturer or other person that stores or treats the hazardous secondary material first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., is not an empty hazardous secondary material container) the remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards).

(ii) In the case when a container used for managing hazardous secondary material remains at the facility for a period of one (1) year or more, the remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the container and its cover and closure devices initially and thereafter, at least once every twelve (12) months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

(iii) When a defect is detected for the container, cover, or closure devices, the remanufacturer or other person that stores or treats the hazardous secondary material shall make first efforts at repair of the defect no later than twenty-four (24) hours after detection and repair shall be completed as soon as possible but no later than five (5) calendar days after detection. If repair of a defect cannot be completed within five (5) calendar days, then the hazardous secondary material shall be removed from the container and the container shall not be used to manage hazardous secondary material until the defect is repaired.

(5) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m<sup>3</sup> or greater, which do not meet applicable DOT regulations as specified in paragraph (f) of this section, are not managing hazardous secondary material in light material service.

(d) Container Level 2 standards.

(1) A container using Container Level 2 controls is one of the following:

(i) A container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation as specified in paragraph (f) of this section.

(ii) A container that operates with no detectable organic emissions as defined in section 261.1081 and determined in accordance with the procedure specified in paragraph (g) of this section.

(iii) A container that has been demonstrated within the preceding twelve (12) months to be vapor-tight by using 40 CFR part 60, appendix A, Method 27 in accordance with the procedure specified in paragraph (h) of this section.

(2) Transfer of hazardous secondary material in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, considering the physical properties of the hazardous secondary material and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this paragraph include using any one of the following: a submerged-fill pipe or other

submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous secondary material is filled and subsequently purging the transfer line before removing it from the container opening.

(3) Whenever a hazardous secondary material is in a container using Container Level 2 controls, the remanufacturer or other person that stores or treats the hazardous secondary material shall install all covers and closure devices for the container, and secure and maintain each closure device in the closed position except as follows:

(i) Opening of a closure device or cover is allowed for the purpose of adding hazardous secondary material or other material to the container as follows:

(A) In the case when the container is filled to the intended final level in one continuous operation, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.

(B) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within fifteen (15) minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.

(ii) Opening of a closure device or cover is allowed for the purpose of removing hazardous secondary material from the container as follows:

(A) For the purpose of meeting the requirements of this section, an empty hazardous secondary material container may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).

(B) In the case when discrete quantities or batches of material are removed from the container, but the container is not an empty hazardous secondary materials container, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within fifteen (15) minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

(iii) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous secondary material. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

(iv) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the remanufacturer or other person that stores or treats the hazardous secondary material based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.

(v) Opening of a safety device, as defined in section 261.1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(4) The remanufacture or other person that stores or treats the hazardous secondary material using containers with Container Level 2 controls shall inspect the containers and their covers and closure devices as follows:

(i) In the case when a hazardous secondary material already is in the container at the time the remanufacturer or other person that stores or treats the hazardous secondary material first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., is not an empty hazardous secondary material container), the remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards).

(ii) In the case when a container used for managing hazardous secondary material remains at the facility for a period of one (1) year or more, the remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the container and its cover and closure devices initially and thereafter, at least once every twelve (12) months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

(iii) When a defect is detected for the container, cover, or closure devices, the remanufacturer or other person that stores or treats the hazardous secondary material shall make first efforts at repair of the defect no later than twenty-four (24) hours after detection, and repair shall be completed as soon as possible but no later than five (5) calendar days after detection. If repair of a defect cannot be completed within five (5) calendar days, then the hazardous secondary material shall be removed from the container and the container shall not be used to manage hazardous secondary material until the defect is repaired.

(e) Container Level 3 standards.

(1) A container using Container Level 3 controls is one of the following:

(i) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of paragraph (e)(2)(ii) of this section.

(ii) A container that is vented inside an enclosure which is exhausted through a closed-vent system to a control device in accordance with the requirements of paragraphs (e)(2)(i) and (ii) of this section.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall meet the following requirements, as applicable to the type of air emission control equipment selected by the remanufacturer or other person that stores or treats the hazardous secondary material:

(i) The container enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The remanufacturer or other person that stores or treats the hazardous secondary material shall perform the verification procedure for the enclosure as specified in Section 5.0 to “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually.

(ii) The closed-vent system and control device shall be designed and operated in accordance with the requirements of section 261.1087.

(3) Safety devices, as defined in section 261.1081, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of paragraph (e)(1) of this section.

(4) Remanufacturers or other persons that store or treat the hazardous secondary material using Container Level 3 controls in accordance with the provisions of this subpart shall inspect and monitor the closed-vent systems and control devices as specified in section 261.1087.

(5) Remanufacturers or other persons that store or treat the hazardous secondary material that use Container Level 3 controls in accordance with the provisions of this subpart shall prepare and maintain the records specified in section 261.1089(d).

(6) Transfer of hazardous secondary material in or out of a container using Container Level 3 controls shall be conducted in such a manner as to minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, considering the physical properties of the hazardous secondary material and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this paragraph include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous secondary material is filled and subsequently purging the transfer line before removing it from the container opening.

(f) For the purpose of compliance with paragraph (c)(1)(i) or (d)(1)(i) of this section, containers shall be used that meet the applicable DOT regulations on packaging hazardous materials for transportation as follows:

(1) The container meets the applicable requirements specified in 49 CFR part 178 or part 179.



(2) Hazardous secondary material is managed in the container in accordance with the applicable requirements specified in 49 CFR part 107, subpart B and 49 CFR parts 172, 173, and 180.

(3) For the purpose of complying with this subpart, no exceptions to the 49 CFR part 178 or part 179 regulations are allowed.

(g) To determine compliance with the no detectable organic emissions requirement of paragraph (d)(1)(ii) of this section, the procedure specified in section 261.1083(d) shall be used.

(1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, shall be checked. Potential leak interfaces that are associated with containers include, but are not limited to: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous secondary materials expected to be managed in this type of container. During the test, the container cover and closure devices shall be secured in the closed position.

(h) Procedure for determining a container to be vapor-tight using Method 27 of 40 CFR part 60, appendix A for the purpose of complying with paragraph (d)(1)(iii) of this section.

(1) The test shall be performed in accordance with Method 27 of 40 CFR part 60, appendix A of this chapter.

(2) A pressure measurement device shall be used that has a precision of  $\pm 2.5$  mm water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.

(3) If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals within five (5) minutes after it is pressurized to a minimum of 4,500 Pascals, then the container is determined to be vapor-tight.

#### **261.1087. Standards: Closed-vent systems and control devices.**

(a) This section applies to each closed-vent system and control device installed and operated by the remanufacturer or other person who stores or treats the hazardous secondary material to control air emissions in accordance with standards of this subpart.

(b) The closed-vent system shall meet the following requirements:

(1) The closed-vent system shall route the gases, vapors, and fumes emitted from the hazardous secondary material in the hazardous secondary material management unit to a control device that meets the requirements specified in paragraph (c) of this section.

(2) The closed-vent system shall be designed and operated in accordance with the requirements specified in section 261.1033(k).

(3) In the case when the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device shall be

equipped with either a flow indicator as specified in paragraph (b)(3)(i) of this section or a seal or locking device as specified in paragraph (b)(3)(ii) of this section. For the purpose of complying with this paragraph, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring loaded pressure relief valves, and other fittings used for safety purposes are not considered to be bypass devices.

(i) If a flow indicator is used to comply with paragraph (b)(3) of this section, the indicator shall be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For this paragraph, a flow indicator means a device which indicates the presence of either gas or vapor flow in the bypass line.

(ii) If a seal or locking device is used to comply with paragraph (b)(3) of this section, the device shall be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position.

(4) The closed-vent system shall be inspected and monitored by the remanufacturer or other person that stores or treats the hazardous secondary material in accordance with the procedure specified in section 261.1033(l).

(c) The control device shall meet the following requirements:

(1) The control device shall be one of the following devices:

(i) A control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least ninety-five (95) percent by weight;

(ii) An enclosed combustion device designed and operated in accordance with the requirements of section 261.1033(c); or

(iii) A flare designed and operated in accordance with the requirements of section 261.1033(d).

(2) The remanufacturer or other person that stores or treats the hazardous secondary material who elects to use a closed-vent system and control device to comply with the requirements of this section shall comply with the requirements specified in paragraphs (c)(2)(i) through (vi) of this section.

(i) Periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of paragraph (c)(1)(i), (ii), or (iii) of this section, as applicable, shall not exceed two hundred forty (240) hours per year.

(ii) The specifications and requirements in paragraphs (c)(1)(i) through (iii) of this section for control devices do not apply during periods of planned routine maintenance.

(iii) The specifications and requirements in paragraphs (c)(1)(i) through (iii) of this section for control devices do not apply during a control device system malfunction.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall demonstrate compliance with the requirements of paragraph (c)(2)(i) of this section (i.e., planned routine maintenance of a control device, during which the control device does not meet the specifications of

paragraph (c)(1)(i), (ii), or (iii) of this section, as applicable, shall not exceed two hundred forty (240) hours per year) by recording the information specified in section 261.1089(e)(1)(v).

(v) The remanufacturer or other person that stores or treats the hazardous secondary material shall correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants.

(vi) The remanufacturer or other person that stores or treats the hazardous secondary material shall operate the closed-vent system such that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally) except in cases when it is necessary to vent the gases, vapors, and/or fumes to avoid an unsafe condition or to implement malfunction corrective actions or planned maintenance actions.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material using a carbon adsorption system to comply with paragraph (c)(1) of this section shall operate and maintain the control device in accordance with the following requirements:

(i) Following the initial startup of the control device, all activated carbon in the control device shall be replaced with fresh carbon on a regular basis in accordance with the requirements of section 261.1033(g) or (h) of this part.

(ii) All carbon that is hazardous waste and that is removed from the control device shall be managed in accordance with the requirements of section 261.1033(n), regardless of the average volatile organic concentration of the carbon.

(4) A remanufacturer or other person that stores or treats the hazardous secondary material using a control device other than a thermal vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with paragraph (c)(1) of this section shall operate and maintain the control device in accordance with the requirements of section 261.1033(j).

(5) The remanufacturer or other person that stores or treats the hazardous secondary material shall demonstrate that a control device achieves the performance requirements of paragraph (c)(1) of this section as follows:

(i) A remanufacturer or other person that stores or treats the hazardous secondary material shall demonstrate using either a performance test as specified in paragraph (c)(5)(iii) of this section or a design analysis as specified in paragraph (c)(5)(iv) of this section the performance of each control device except for the following:

(A) A flare;

(B) A boiler or process heater with a design heat input capacity of forty-four (44) megawatts or greater;

(C) A boiler or process heater into which the vent stream is introduced with the primary fuel;

(ii) A remanufacturer or other person that stores or treats the hazardous secondary material shall demonstrate the performance of each flare in accordance with the requirements specified in section 261.1033(e).

(iii) For a performance test conducted to meet the requirements of paragraph (c)(5)(i) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall use the test methods and procedures specified in section 261.1034(c)(1) through (4).

(iv) For a design analysis conducted to meet the requirements of paragraph (c)(5)(i) of this section, the design analysis shall meet the requirements specified in section 261.1035(b)(4)(iii).

(v) The remanufacturer or other person that stores or treats the hazardous secondary material shall demonstrate that a carbon adsorption system achieves the performance requirements of paragraph (c)(1) of this section based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal.

(6) If the remanufacturer or other person that stores or treats the hazardous secondary material and the Department do not agree on a demonstration of control device performance using a design analysis then the disagreement shall be resolved using the results of a performance test performed by the remanufacturer or other person that stores or treats the hazardous secondary material in accordance with the requirements of paragraph (c)(5)(iii) of this section. The Department may choose to have an authorized representative observe the performance test.

(7) The closed-vent system and control device shall be inspected and monitored by the remanufacture or other person that stores or treats the hazardous secondary material in accordance with the procedures specified in section 261.1033(f)(2) and (l). The readings from each monitoring device required by section 261.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this section.

#### **261.1088. Inspection and monitoring requirements.**

(a) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor air emission control equipment used to comply with this subpart in accordance with the applicable requirements specified in sections 261.1084 through 261.1087.

(b) The remanufacture or other person that stores or treats the hazardous secondary material shall develop and implement a written plan and schedule to perform the inspections and monitoring required by paragraph (a) of this section. The remanufacturer or other person that stores or treats the hazardous secondary material shall keep the plan and schedule at the facility.

#### **261.1089. Recordkeeping requirements.**

(a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to requirements of this subpart shall record and maintain the information specified in paragraphs (b) through (j) of this section, as applicable to the facility. Except for air emission control equipment design documentation and information required by paragraphs (i) and (j) of this section, records required by this section shall be maintained at the facility for a minimum of three (3) years. Air emission control equipment design documentation shall be maintained at the facility until the air emission control equipment is replaced or otherwise no longer in service. Information required by paragraphs (i) and (j) of this section shall be maintained at the facility for as long as the hazardous secondary material management unit is not using air emission controls specified in sections 261.1084 through 261.1087 in accordance with the conditions specified in section 261.1080(b)(7) or (d), respectively.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank with air emission controls in accordance with the requirements of section 261.1084 shall prepare and maintain records for the tank that include the following information:

(1) For each tank using air emission controls in accordance with the requirements of section 261.1084, the remanufacturer or other person that stores or treats the hazardous secondary material shall record:

(i) A tank identification number (or other unique identification description as selected by the remanufacturer or other person that stores or treats the hazardous secondary material).

(ii) A record for each inspection required by section 261.1084 that includes the following information:

(A) Date inspection was conducted.

(B) For each defect detected during the inspection: The location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the requirements of section 261.1084, the remanufacturer or other person that stores or treats the hazardous secondary material shall also record the reason for the delay and the date that completion of repair of the defect is expected.

(2) In addition to the information required by paragraph (b)(1) of this section, the remanufacturer or other person that stores or treats the hazardous secondary material shall record the following information, as applicable to the tank:

(i) The remanufacturer or other person that stores or treats the hazardous secondary material using a fixed roof to comply with the Tank Level 1 control requirements specified in section 261.1084(c) shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous secondary material in the tank performed in accordance with the requirements of section 261.1084(c). The records shall include the date and time the samples were collected, the analysis method used, and the analysis results.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material using an internal floating roof to comply with the Tank Level 2 control requirements specified in section 261.1084(e) shall prepare and maintain documentation describing the floating roof design.

(iii) Remanufacturer or other persons that store or treat the hazardous secondary material using an external floating roof to comply with the Tank Level 2 control requirements specified in section 261.1084(f) shall prepare and maintain the following records:

(A) Documentation describing the floating roof design and the dimensions of the tank.

(B) Records for each seal gap inspection required by section 261.1084(f)(3) describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in section 261.1084(f)(1), the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.

(iv) Each remanufacturer or other person that stores or treats the hazardous secondary material using an enclosure to comply with the Tank Level 2 control requirements specified in section 261.1084(i) shall prepare and maintain the following records:

(A) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under 40 CFR 52.741, appendix B.

(B) Records required for the closed-vent system and control device in accordance with the requirements of paragraph (e) of this section.

(c) [Reserved]

(d) The remanufacturer or other person that stores or treats the hazardous secondary material using containers with Container Level 3 air emission controls in accordance with the requirements of section 261.1086 shall prepare and maintain records that include the following information:

(1) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under 40 CFR 52.741, Appendix B.

(2) Records required for the closed-vent system and control device in accordance with the requirements of paragraph (e) of this section.

(e) The remanufacturer or other person that stores or treats the hazardous secondary material using a closed-vent system and control device in accordance with the requirements of section 261.1087 shall prepare and maintain records that include the following information:

(1) Documentation for the closed-vent system and control device that includes:

(i) Certification that is signed and dated by the remanufacturer or other person that stores or treats the hazardous secondary material stating that the control device is designed to operate at the performance level documented by a design analysis as specified in paragraph (e)(1)(ii) of this section or by performance tests as specified in paragraph (e)(1)(iii) of this section when the tank or container is or would be operating at capacity or the highest level reasonably expected to occur.

(ii) If a design analysis is used, then design documentation as specified in section 261.1035(b)(4). The documentation shall include information prepared by the remanufacturer or other person that stores or treats the hazardous secondary material or provided by the control device manufacturer or vendor that describes the control device design in accordance with section 261.1035(b)(4)(iii) and certification by the remanufacturer or other person that stores or treats the hazardous secondary material that the control equipment meets the applicable specifications.

(iii) If performance tests are used, then a performance test plan as specified in section 261.1035(b)(3) and all test results.

(iv) Information as required by sections 261.1035(c)(1) and 261.1035(c)(2), as applicable.

(v) A remanufacturer or other person that stores or treats the hazardous secondary material shall record, on a semiannual basis, the information specified in paragraphs (e)(1)(v)(A) and (B) of this section for those planned routine maintenance operations that would require the control device not to meet the requirements of section 261.1087(c)(1)(i), (ii), or (iii), as applicable.

(A) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next six (6)-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

(B) A description of the planned routine maintenance that was performed for the control device during the previous six (6)-month period. This description shall include the type of maintenance performed and the total number of hours during those six (6) months that the control device did not meet the requirements of section 261.1087(c)(1)(i), (ii), or (iii), as applicable, due to planned routine maintenance.

(vi) A remanufacturer or other person that stores or treats the hazardous secondary material shall record the information specified in paragraphs (e)(1)(vi)(A) through (C) of this section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of section 261.1087(c)(1)(i), (ii), or (iii), as applicable.

(A) The occurrence and duration of each malfunction of the control device system.

(B) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the hazardous secondary material management unit through the closed-vent system to the control device while the control device is not properly functioning.

(C) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.

(vii) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with section 261.1087(c)(3)(ii).

(f)(1) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank or container exempted under the hazardous secondary material organic concentration conditions specified in section 261.1082(c)(1) or (c)(2)(i) through (vi), shall prepare and maintain at the facility records documenting the information used for each material determination (e.g., test results, measurements, calculations, and other documentation). If analysis results for material samples are used for the material determination, then the remanufacturer or other person that stores or treats the hazardous secondary material shall record the date, time, and location that each material sample is collected in accordance with applicable requirements of section 261.1083.

(2) [Reserved]

(g) A remanufacturer or other person that stores or treats the hazardous secondary material designating a cover as “unsafe to inspect and monitor” pursuant to sections 261.1084(l) or 261.1085(g) shall record and keep at facility the following information: The identification numbers for hazardous secondary material management units with covers that are designated as “unsafe to inspect and monitor,” the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.

(h) The remanufacturer or other person that stores or treats the hazardous secondary material that is subject to this subpart and to the control device standards in 40 CFR part 60, subpart VV, or 40 CFR part

61, subpart V, may elect to demonstrate compliance with the applicable sections of this subpart by documentation either pursuant to this subpart, or pursuant to the provisions of 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR parts 60 or 61 duplicates the documentation required by this section.

**261.1090. [Reserved]**

**Revise 61-79.262.21(b)(8) to read:**

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this section and that it will notify the EPA Director of ~~OSW~~ the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as it becomes known.

**Revise 61-79.262.21(f)(2) to read:**

(2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.

**Revise 61-79.262.21(h)(3) to read:**

(3) If a registrant would like to change paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its ~~decisions~~ decision by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

**Revise 61-79.262.33 to read:**

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F and therein accordance with applicable S. C. Public Service Commission regulations. ~~If placards are not required a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1)~~

**Revise 61-79.262.42(a) to read:**

(a)(1) A generator with one thousand (1,000) kilograms or greater of hazardous waste in a calendar month, or greater than one (1) kg of acute hazardous waste listed in section 261.31 or 261.33(e) in a calendar month, who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.



(2) A generator of one thousand (1,000) kilograms or greater of hazardous waste in a calendar month, or greater than one (1) kg of acute hazardous waste listed in section 261.31 or 261.33(e) in a calendar month, must submit an Exception Report to the Agency Department if ~~he~~they have not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter. The Exception Report must include:

**Revise 61-79.262.206(b) to read:**

(b) Management of Containers in the Laboratory: An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

**Revise 61-79.262.212(e)(3) to read:**

(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(e) and (d) section 262.13 in the calendar month that the hazardous waste determination was made, and

**Revise 61-79.263.20(a)(1) to read:**

(a)(1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest ~~signed in accordance with the provisions of R.61-79.262, subpart B~~form (EPA Form 8700-22, and if necessary, EPA Form 8700-22A) signed in accordance with the requirement of section 262.23, or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with section 262.20(a)(3), and signed with a valid and enforceable electronic signature as described in section 262.25.

**Revise 61-79.264.72(c) to read:**

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within fifteen (15) days after receiving the waste, the owner or operator must immediately submit to the ~~Regional Administrator~~Department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

**Revise 61-79.264.76(a) to read:**

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by section 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by ~~261.5~~ of this chapter, then the owner or operator must prepare and submit a letter to the Agency Department within fifteen (15) days after receiving the waste. The unmanifested waste report must contain the following information:

**Revise 61-79.264.147(h)(1) to read:**

(1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter ~~or~~of credit that conforms to the requirements of this paragraph and submitting a copy of the letter of credit the Department.

**Revise 61-79.264.151(a)(1) to read:**

(a)(1) A ~~standby~~trust agreement for a trust fund, as specified in sections 264.143(a) or 264.145(a) or 265.143(a) or 265.145(a), must be worded as noted in section 264.151 Appendix A(1) except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**Revise 61-79.264.151(k) to read:**

(k) A letter of credit, as specified in section 264.147(ih) or 265.147(ih), must be worded as noted in section 264.151 Appendix K, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**Revise 61-79.264.151(l) to read:**

(l) A surety bond, as specified in section 264.147(hi) or 265.147(hi) of this chapter, must be worded as noted in section 264.151 Appendix L, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**Revise 61-79.264.151 Appendix K to read:**

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements up to [in words] U.S. dollars \$\_\_\_\_\_ per occurrence and the annual aggregate amount of [in words] U.S. dollars \$\_\_\_\_\_, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [in words] U.S. dollars \$\_\_\_\_\_ per occurrence, and the annual aggregate amount of [in words] U.S. dollars \$\_\_\_\_\_, for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this letter of credit No. \_\_\_\_\_, and [insert the following language if the letter of credit is being used without a standby trust fund:} (1) a signed certificate reading as follows:

**Revise 61-79.264.151 Appendix M, Section 8(c) to read:**

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central ~~depository~~depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such ~~depository~~depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

**Revise 61-79.264.151 Appendix N, Section 3(c)(1) to read:**

(1) An employee ~~of~~ [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or

**Revise 61-79.264.151 Appendix N, Section 3(e)(3) to read:**

(3) Property loaned ~~to~~by [insert Grantor];

**Revise 61-79.264.151 Appendix N, Section 8(c) to read:**

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central ~~depository~~depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such ~~depository~~depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

**Revise 61-79.264.151 Appendix N, Section 12 to read:**

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

**Revise 61-79.264.151 Appendix N, Section 16 to read:**

Section 16. Immunity and indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses ~~reasonable~~reasonably incurred in its defense in the event the Grantor fails to provide such defense.

**Add 61-79.264.172 to read:**

**264.172. Compatibility of waste with containers.**

The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

**Revise 61-79.264.193(e)(2)(v)(B) to read:**

(B) Meets the definition of reactive waste under ~~R. 61-79.264.21~~section 261.23, and may form an ignitable or explosive vapor; and

**Revise 61-79.264.221(e)(2)(i)(B) to read:**

(B) The monofill is located more than one-quarter mile from an "underground source of drinking water"; (as that term is defined in section 270.2); and

**Revise 61-79.265.56(b) to read:**

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and ~~area~~areal extent of any released materials and notify the Department per section 265.56(d)(2). ~~He~~They may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

**Revise 61-79.265.76(a) to read:**

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by section 263.20(e), and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the ~~Regional Administrator~~Department within fifteen (15) days after receiving the waste. The unmanifested waste report must contain the following information:

**Revise 61-79.265.255(b) to read:**

(b) The Department shall approve an action leakage rate for waste piles units subject to section 265.254. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding one (1) foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

**Revise 61-79.265.314(f)(2) to read:**

(2) Placement in such owner or operator's landfill will not present a risk of contamination of any "underground source of drinking water" (as that term is defined in ~~40 CFR~~section 270.2).

**Revise 61-79.266.100(c)(3) to read:**

(3) Hazardous wastes that are exempt from regulation under sections 261.4 and 261.6(a)(3)(iii) and (vi), and hazardous wastes that are subject to the special requirements for ~~conditionally exempt~~every small quantity generators under ~~261.5~~section 262.14; and

**Revise 61-79.266.108(c) Note to read:**

**Note:** Hazardous wastes that are subject to the special requirements for small quantity generators under ~~261.5 of this chapter~~section 262.16 may be burned in an offsite device under the exemption provided by 266.108, but must be included in the quantity determination for the exemption.

**Revise 61-79.270.14(a) to read:**

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in sections 270.14 through 270.29 applicable to the facility. The part

B information requirements presented in sections 270.14 through 270.29 reflect the standards promulgated in R.61-79.264. These information requirements are necessary in order for the Department to determine compliance with the ~~part 264~~R.61-79.264 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in part B cannot be provided to the extent required, the Department may make allowance for submission of such information on a case-by-case basis. Information required in part B shall be submitted to the Department and signed in accordance with the requirements in section 270.11. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a qualified Professional Engineer. For post-closure permits, only the information specified in section 270.28 is required in part B of the permit application.

**Revise 61-79.270.26(c)(15) to read:**

(15) A certification signed by a qualified Professional Engineer, stating that the drip pad design meets the requirements of paragraphs (a) through (f) of section 264.573.

**Fiscal Impact Statement:**

The proposed amendments have no substantial fiscal or economic impact on the state or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to realize the benefits of and maintain state consistency with the EPA's January 13, 2015, and May 30, 2018, amendments to 40 CFR 260 through 279, and to correct typographical errors, citation errors, and other errors and omissions that have come to the attention of the Department in R.61-79, Hazardous Waste Management Regulations.

Legal Authority: 1976 Code Sections 44-56-10 et seq.

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

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

The Department amends R.61-79 to adopt the EPA's "Revisions to the Definition of Solid Waste Rule," published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This rule revises several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act ("RCRA"). The purpose of these revisions is to encourage recycling of hazardous waste. The federal rule has made the recycling-related provisions less stringent than previous standards set forth. EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including

revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion) describe the amendments. The revisions to the typographical, citation, and other errors and omissions in R.61-79 correct form references, add language omitted during previous rule adoption, and other changes to conform to federal law.

#### DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from these revisions. The EPA estimates in the Federal Register, Volume 80, Number 8, January 13, 2015, on page 1769 that the Definition of Solid Waste Rule will result in cost savings for the regulated community due to increased recycling of hazardous wastes. The revisions to the typographical, citation, and other errors and omissions in R.61-79 correct form references, add language omitted during previous rule adoption, and other changes to conform to federal law. The amendments benefit the regulated community by clarifying and updating the regulations and increasing ease of use and will not result in increased costs.

#### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates regarding costs to the state or its political subdivisions.

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

The revisions to R.61-79 provide continued protection of the environment and public health, as indicated above.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions. Rather, the state's authority to implement programs for which the state has been delegated authority, which are beneficial to public health and the environment, would be compromised if these amendments were not adopted in South Carolina.

#### **Statement of Rationale:**

R.61-79 contains requirements for hazardous waste management, including identification of waste, standards for generators, transporters, and owners/operators of treatment, storage, and disposal (TSD) facilities, procedures for permits for TSD facilities, investigation and cleanup of hazardous waste, and closure/post-closure requirements. The regulation is promulgated pursuant to the S.C. Hazardous Waste Management Act, Section 44-56-10. As an authorized state program, the regulation must be equivalent to and consistent with the U.S. EPA's regulations under the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et. seq.* The revisions encourage recycling of hazardous waste. The Department also amends R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention, such as correcting form references, adding language that was erroneously omitted during adoption of previous rules, and other such changes.