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South Carolina Board of Health and Environmental Control

Agenda

December 12, 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 November 7, 2019 meeting
2. Administrative and Consent Orders issued by Health Regulation
3. Administrative and Consent Orders issued by Environmental Affairs
4. **Public Hearing and Request for Notice of Final Regulation Approval**, Regulation 61-43, *Standards for the Permitting of Agricultural Animal Facilities*, Proposed Amendment, Document No. 4886
5. **Public Hearing and Request for Notice of Final Regulation Approval**, Regulation 30-1, *Statement of Policy*, and Regulation 30-14, *Administrative Procedures*, Proposed Amendment, Document No. 4897
6. **Public Hearing and Request for Notice of Final Regulation Approval**, Regulation 61-32, *Soft Drink and Water Bottling Plants*, Proposed Amendment, and Regulation 61-54, *Wholesale Commercial Ice Manufacturing*, Proposed Repeal, Document No. 4903
7. **Public Hearing and Request for Notice of Final Regulation Approval**, Regulation 61-36, *Frozen Desserts*, Proposed Amendment, and Regulation 61-35, *Imitation Milk, Imitation Milk Products and Products Made in Semblance of Milk and Milk Products*, Proposed Repeal, Document No. 4902
8. **Public Hearing and Request for Notice of Final Regulation Approval**, Regulation 61-1, *Medical and Dental Scholarship Fund*, Proposed Repeal, Document No. 4898
9. Agency Affairs

Executive Session (if needed)

10. **Final Review Conference** - Docket No. 19-RFR-48, Maguro Enterprises, LLC, Groundwater Withdrawal Permit, Berkeley County, Permit No. 08IN015, for groundwater withdrawal at source 08IN015G01

Adjournment

Note: The next scheduled meeting is January 6, 2020.

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

December 12, 2019

- () ACTION/DECISION
(X) INFORMATION

- I. TITLE:** Health Regulation Administrative and Consent Orders.
- II. SUBJECT:** Health Regulation Administrative and Consent Orders for the period of October 1, 2019 through October 31, 2019.
- III. FACTS:** For the period of October 1, 2019 through October 31, 2019, Health Regulation reports 4 Consent Orders totaling \$14,300 in assessed monetary penalties. There were no Administrative Orders or 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
Health Facilities Licensing	Community Residential Care Facility	0	1	0	\$12,300
	In-Home Care Provider	0	1	0	\$500
EMS & Trauma	Paramedic	0	1	0	\$0
	EMS Agency	0	1	0	\$1,500
TOTAL		0	4	0	\$14,300

Submitted By:

Gwen C. Thompson

Gwen C. Thompson
Interim Director
Health Regulation

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

December 12, 2019

Bureau of Health Facilities Licensing

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Community Residential Care Facility	502	21,560

1. McLeod Manor – Charleston, SC

Inspections and Investigations: The Department conducted several inspections, follow-up inspections, and investigations, including September 2018, December 2018, and February 2019, and found that the facility repeatedly violated numerous regulatory requirements.

Violations: The Department found that the facility failed to allow authorized individuals to enter the facility for an inspection, repeatedly failed to submit a timely plan of correction, and failed to have written policies and procedures addressing each section of the regulation regarding resident care, rights, and the operation of the facility. The Department also found that the facility repeatedly failed to conduct criminal background checks, repeatedly failed to maintain current staff contact information, failed to document staffing ratios, and failed to maintain documentation of training for all staff members. The facility had multiple violations regarding training, including emergency procedures, fire response, resident information confidentiality, restraint techniques, medication management, and the care of persons with contagious or communicable diseases. Moreover, the facility failed to document resident observation notes, resident individual care plans, resident physical examinations, and two-step tuberculin skin tests on residents.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. The parties executed a consent order imposing a civil monetary penalty of \$12,300 against the facility. The facility is required to pay \$6,800 of the assessed monetary penalty in four payments of \$1,700. The facility has made the first required payment. The facility is also required to participate in a compliance assistance meeting with the Department.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities
In-Home Care Provider	658

2. Lowcountry Companions, LLC – Charleston, SC

Inspections and Investigations: The Department conducted an investigation in May 2019, which resulted in a cited violation and enforcement.

Violations: During the May 2019, investigation, when Department staff arrived at the facility to conduct an investigation, the facility administrator instructed facility staff to deny Department staff access to the Facility and its records. Department staff went back to the facility on a later date and were granted access to conduct the investigation.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. The parties executed a consent order imposing a civil monetary penalty of \$500 against the facility. The facility was required to pay the full assessed monetary penalty within 30 days of executing the Consent Order. The facility has made the required payment.

Prior Actions: None.

Bureau of Emergency Medical Services and Trauma

Provider Type	Total # of Certified Paramedics
Paramedic	3,873

3. Dwayne Alan Hollingsworth – Paramedic

Inspections and Investigations: In June 2019, the Department was notified of patient care allegedly provided by Mr. Hollingsworth and initiated an investigated.

Violations: The Department found that Mr. Hollingsworth committed misconduct by disregarding appropriate orders of a physician concerning emergency treatment. Specifically, Mr. Hollingsworth disregarded state protocols adopted by his agency’s medical control physician by not administering a fluid bolus to a multi-system trauma patient who was in hypovolemic shock.

Enforcement Action: The parties agreed to resolve the matter with a consent order. The parties executed a consent order imposing a six-month suspension, held in abeyance, on Mr. Hollingsworth’s paramedic certificate. Mr. Hollingsworth also agreed to complete an advanced cardiac life support course, a prehospital trauma life support course, and a state protocol examination administered by his agency’s medical control physician.

Prior Actions: None.

Provider Type	Total # of Licensed Ambulance Services
EMS Agency	268

4. Vital Care EMS – EMS Agency

Inspections and Investigations: In May 2019, Vital Care EMS notified the Department it had an employee who worked as a paramedic without possessing a valid South Carolina paramedic certification, and the Department initiated an investigation.

Violations: The Department found that the employee did not hold a certification as a South Carolina paramedic while he performed patient care within the scope of a paramedic on three separate ambulance runs working for Vital Care EMS in February 2019. Therefore, the Department determined Vital Care EMS committed misconduct in by permitting uncertified personnel to perform patient care.

Enforcement Action: The parties agreed to resolve the matter with a consent order. The parties executed a consent order imposing a civil monetary penalty of \$1,500 against Vital Care EMS. The provider was required to pay \$500 of the assessed monetary penalty within 30 days of executing the Consent Order, with the remaining \$1,000 held in abeyance. The provider has made the required payment.

Prior Actions: None.

SUMMARY SHEET
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
December 12, 2019

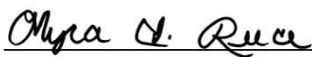
_____ ACTION/DECISION

 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 October 1, 2019, through October 31, 2019.
3. **FACTS:** For the reporting period of October 1, 2019, through October 31, 2019, the Office of Environmental Affairs issued one hundred fifty-eight (158) Consent Orders with total assessed civil penalties in the amount of two hundred sixteen thousand, six hundred ninety-five (\$216,695.00) dollars. Also, seven (7) Administrative Orders were reported during this period with total assessed civil penalties in the amount of two thousand, two hundred (\$2,200.00) dollars.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Agreements	Consent Orders	Assessed Penalties
Land and Waste Management					
UST Program	0	0	0	4	\$3,210.00
Aboveground Tanks	0	0	0	0	\$0.00
Solid Waste	0	0	0	1	\$3,900.00
Hazardous Waste	0	0	0	3	\$35,000.00
Infectious Waste	0	0	0	0	\$0.00
Mining	0	0	0	0	\$0.00
SUBTOTAL	0	0	0	8	\$42,110.00
Water					
Recreational Water	1	\$1,000.00	0	60	\$69,480.00
Drinking Water	0	0	0	3	\$4,000.00
Water Pollution	0	0	0	3	\$9,505.00
Dam Safety	0	0	0	0	\$0.00
SUBTOTAL	1	\$1,000.00	0	66	\$82,985.00
Air Quality					
SUBTOTAL	1	\$700.00	0	1	\$3,000.00
Environmental Health Services					
Food Safety	1	\$500.00	0	82	\$88,600.00
Onsite Wastewater	4	\$0.00	0	1	\$0.00
SUBTOTAL	5	\$500.00	0	83	\$88,600.00
OCRM					
SUBTOTAL	0	0	0	0	0
TOTAL	7	\$2,200.00	0	158	\$216,695.00

Submitted by:



Myra C. Reece

Director of Environmental Affairs

Summary: Sanjay and Ulka Patel (Individual/Entity) own underground storage tanks (USTs) located in Conway, South Carolina. On July 5, 2019, the Department issued a Notice of Alleged Violation because no overfill prevention device was present on diesel tank #4. 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. The violation has been corrected.

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

3) Order Type and Number: Consent Order 19-0269-UST
Order Date: October 14, 2019
Individual/Entity: **Richland County School District 1**
Facility: Maintenance Facility
Location: 220 Wayne Street
Columbia, SC 29201
Mailing Address: Same
County: Richland
Previous Orders: None
Permit/ID Number: 07345
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. 61-92.280.10(d) (2018).

Summary: Richland County School District 1 (Individual/Entity) owns underground storage tanks (USTs) located in Columbia, South Carolina. On August 8, 2019, the Department issued a Notice of Alleged Violation because fuel was delivered into the USTs before the Annual Tank Registration Fees for fiscal year 2020 were paid. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: introduced regulated substances into USTs for which the owner does not hold a currently valid registration. 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 19-0317-UST
Order Date: October 15, 2019
Individual/Entity: **Hunter Brothers Farm**
Facility: Hunter Brothers Farm
Location: 1625 Rocky River Road
Lancaster, SC 29720
Mailing Address: 4129 Jenkins Hill Road
Lancaster
SC 29720-7426
County: Lancaster
Previous Orders: None
Permit/ID Number: 18419
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-60(A) (2018).

Summary: Hunter Brothers Farm (Individual/Entity), owns and operates an underground storage tank located in Lancaster, South Carolina. On August 14, 2019, the Department issued a Notice of Alleged Violation because annual tank registration fees for fiscal year 2020 had not been paid. The Individual/Entity has violated the SUPERB Act as follows: failed to pay annual tank registration fees.

Action: The Individual/Entity is required to: pay annual tank registration fees and associated late fees for fiscal year 2020 in the amount of six hundred five dollars (\$605.00) and pay a civil penalty in the amount of one hundred twenty dollars (**\$120.00**).

Solid Waste Enforcement

5) Order Type and Number: Consent Order 19-20-SW
Order Date: October 29, 2019
Individual/Entity: **Nobles Corporation**
Facility: Nobles Corporation C&D Solid Waste Processing & Recycling Facility and Nobles Corporation Wood Chipping Facility
Location: 2349 Highway 301 South
Dillon, SC 29536
Mailing Address: 6995 Lester Road
Ocean Isle, NC 28469
County: Dillon
Previous Orders: None
Permit/ID Number: 172483-2001 and 172483-3002
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 *et seq.* (2002 & Supp. 2018); Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, R.61-107.4 (Supp. 2016) Part III B.1, E.1.d, & e, E.4, E.5c, E.15, Part V C.2 and Part VI B.; Solid Waste Management: Solid Waste Processing Facilities, R.61-107.6 (1995) E.7; and Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19 (2012); Part II.B.1; Class 2 Solid Waste Processing Facility Permit number 172483-2001, Operational Plan 3.b., Special Permit Conditions A.1. & 3.; Type One Composting Facility Permit number 172483-3002, A.1. & 3; Operational Plan and Contingency Plan.

Summary: Nobles Corporation (Individual/Entity) owns and operates a C&D Processing Facility and Wood Chipping Facility located in Dillon, South Carolina. During multiple inspections, the Department's Inspector observed violations and on May 7, 2019, a Notice of Alleged Violation was issued. The Individual/Entity violated the South Carolina Solid Waste Policy and Management Act, the Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals Regulation; Solid Waste Management: Solid Waste Processing Facilities Regulation; Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation and associated Permits as follows: exceeded the on-site storage limit for unprocessed and preprocessed C&D material for greater than one week; failed meet the required buffers, failed to contain all waste in the tipping area, failed to obtain a permit from the Department to operate a structural fill; stored unprocessed land clearing debris outside the permitted area and in excess of the permitted limit; failed to have adequate fire lanes; and, failed to obtain a permit from the Department before burning land clearing debris at the Wood Chipping Facility.

Action: The Individual/Entity is required to: apply a two foot cover and seed the finished

surface of the structural fill area; submit a copy of a deed notation for the area of the property that was filled; remove all remaining compost from the Wood Chipping Facility and terminate the permit; and, pay a civil penalty in the amount of three thousand, nine hundred dollars (**\$3,900.00**) in accordance with the terms of a promissory note.

Hazardous Waste Enforcement

6) Order Type and Number: Consent Order 19-23-HW
Order Date: October 3, 2019
Individual/Entity: **Spartanburg Medical Center – Mary Black Campus**
Facility: Spartanburg Medical Center – Mary Black Campus
Location: 1700 Skylyn Drive
Spartanburg, SC 29307
Mailing Address: Same
County: Spartanburg
Previous Orders: 16-6-HW (\$12,000.00)
Permit/ID Number: SCR 000 001 131
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Spartanburg Medical Center, Mary Black Campus (Individual/Entity) provides health care services at its facility located at 1700 Skylyn Drive, Spartanburg, South Carolina. The Department conducted an inspection on April 23, 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 a waste was a hazardous waste; failed to keep containers holding hazardous waste closed, except when it is necessary to add or remove waste; failed to ensure each container is labeled or marked clearly with accumulation start dates; failed to move containers from the satellite area to the storage area with three (3) days from the date the excess began accumulating; accumulated acutely hazardous waste in excess of one (1) quart; failed to clean up a hazardous waste discharge that occurred during processing; failed to label each container with the appropriate EPA Hazardous Waste Number(s); failed to receive an extension from the Department to allow hazardous waste to remain onsite for longer than 180 days; 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 submit a legible copy of the manifest to the Department, with some indication that the generator has not received confirmation of delivery from the designated facility; failed to label or mark clearly each container of universal lamps; and failed to demonstrate the length of time universal waste had been accumulated from the date it became a waste.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of twenty-six thousand dollars (**\$26,000.00**).

7) Order Type and Number: Consent Order 19-25-HW
Order Date: October 3, 2019
Individual/Entity: **P&L Development, LLC**
Facility: P&L Development, LLC
Location: 513 Old Griffin Road
Piedmont, SC 29673
Mailing Address: 1874 Highway 72
West Clinton, SC 29325
County: Greenville
Previous Orders: None
Permit/ID Number: SCR 000 748 553
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: P&L Development, LLC (Individual/Entity) is a generator of hazardous waste located in Greenville County, South Carolina. The Department conducted an inspection conducted on May 7, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to have all containers holding hazardous waste closed, except when necessary to add or remove waste; failed to ensure that each container containing hazardous waste shall be permanently and legibly marked with the following or equivalent statement: "Hazardous Waste- federal laws prohibit improper disposal"; failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; failed to file a revised or new Notification Form with the Department whenever acute hazardous waste was produced within thirty (30) days after such waste was first produced; and failed to file a revised or new Notification Form with the Department whenever the information previously provided (generator status) became outdated or inaccurate.

Action: The individual/Entity is required to: submit to the Department for review and approval, a Waste Management Plan (WMP) for all hazardous wastes generated at the facility. The WMP shall include, but not be limited to: (a) the method(s) for tracking the length of time stored onsite; (b) the procedures for labeling and ensuring containers are closed and in good condition; and (c) the procedure for determining proper waste disposal; within fifteen (15) days of receipt of any written comments or deficiencies from the Department's review of the WMP, revise the WMP and resubmit for further review; upon receiving the Department's written approval of the WMP, immediately implement the WMP as part of the facility's operating record; and pay a civil penalty in the amount of four thousand dollars **(\$4,000.00)**.

8) Order Type and Number: Consent Order 19-26-HW
Order Date: October 17, 2019
Individual/Entity: **Highland Industries, Inc.**
Facility: Highland Industries, Inc.
Location: 650 Chesterfield Highway
Cheraw, SC 29520
Mailing Address: Same
County: Chesterfield
Previous Orders: None
Permit/ID Number: SCD 045 639 861
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina

Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Highland Industries, Inc. (Individual/Entity) is a generator of hazardous waste located in Chesterfield County, South Carolina. The Department conducted an inspection on May 7, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: 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 the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; failed to keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste; failed to ensure each container containing hazardous waste shall be permanently and legibly marked with the following or equivalent statement: "Hazardous Waste – federal laws prohibit improper disposal"; failed to label each container with the appropriate EPA Hazardous Waste Number(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 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)"; and failed to ensure that each battery or a container or package in which such batteries are contained are labeled or marked clearly with one of the following phrases: "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

Action: The individual/Entity is required to: pay a civil penalty in the amount of five thousand dollars (**\$5,000.00**).

BUREAU OF WATER

Recreational Waters Enforcement

9) <u>Order Type and Number:</u>	Administrative Order 19-120-RW
<u>Order Date:</u>	August 28, 2019
<u>Individual/Entity:</u>	Harrar Holdings II, LLC
<u>Facility:</u>	Serendipity
<u>Location:</u>	407 71 st Avenue North Myrtle Beach, SC 29577
<u>Mailing Address:</u>	Same
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	26-G14-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Harrar Holdings II, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 3, 2019, and June 30, 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 equipment room was 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; and, the spa temperature was not being monitored and posted to the public.

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

10) Order Type and Number: Consent Order 19-176-RW
Order Date: October 1, 2019
Individual/Entity: **Magnolia Hospitality, LLC**
Facility: Best Western
Location: 11445 Ocean Highway
Pawleys Island, SC 29585
Mailing Address: Same
County: Georgetown
Previous Orders: None
Permit/ID Number: 22-114-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Magnolia Hospitality, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 2019, July 15, 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: a ladder was missing a bumper; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring 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 two thousand, forty dollars **(\$2,040.00)**.

11) Order Type and Number: Consent Order 19-177-RW
Order Date: October 1, 2019
Individual/Entity: **Arrowood Swim Club**
Facility: Arrowood Swim Club
Location: 1209 Craig Avenue
Lancaster, SC 29720
Mailing Address: 1989 Shamrock Avenue
Lancaster, SC 29720
County: Lancaster
Previous Orders: None
Permit/ID Number: 29-006-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Arrowood Swim Club (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 19, 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 not tight and secure; the pool floor was dirty; the plaster on the pool floor was chipped; the deck was uneven with sharp edges; a skimmer was missing a weir and the basket was floating; the drinking water fountain was not operating properly; the flow meter was not operating properly; there was standing water on the floor in the pool equipment room; the life ring did not have a permanently

attached rope; the pool rules sign was damaged and was not legible; 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**). The civil penalty has been paid.

12)	<u>Order Type and Number:</u>	Consent Order 19-178-RW
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	West Farm Homeowners' Association, Inc.
	<u>Facility:</u>	West Farm
	<u>Location:</u>	400 Chillingham Court Fountain Inn, SC 29644
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-1208B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: West Farm Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 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 and pH levels were not within the acceptable range of water quality standards; the disinfection equipment was not operating; the recirculation and filtration system was not operating; and, the automatic controller was not operating.

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

13)	<u>Order Type and Number:</u>	Consent Order 19-179-RW
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	The Young Men's Christian Association of Sumter, S.C.
	<u>Facility:</u>	YMCA Sumter
	<u>Location:</u>	50 Willow Drive Sumter, SC 29150
	<u>Mailing Address:</u>	510 Miller Road Sumter, SC 29150
	<u>County:</u>	Sumter
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	43-005-1 & 43-051-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: The Young Men's Christian Association of Sumter, S.C. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On July 2, 2019, and July 31, 2019, the pool and spa were 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 pump room was not locked; there were non-pool related items stored in the pump room; 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 Vac Alert system was not operating;

the main drain grates were broken; there were no "No Lifeguard On Duty – Swim At Your Own Risk" signs; there were leaking pipes in the pump room; there was a chlorine leak in the pump room; the disinfection equipment was not operating properly; 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 thousand, three hundred sixty dollars (**\$1,360.00**).

14) Order Type and Number: Consent Order 19-181-RW
Order Date: October 1, 2019
Individual/Entity: **Hartsville Ventures, LLC**
Facility: Hampton Inn
Location: 203 East Carolina Avenue
Hartsville, SC 29550
Mailing Address: 3722 Shipyard Boulevard, Suite C
Wilmington, NC 28403
County: Darlington
Previous Orders: None
Permit/ID Number: 16-1007B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Hartsville Ventures, 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 chlorine and pH levels were not within the acceptable range of water quality standards; 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.

15) Order Type and Number: Consent Order 19-182-RW
Order Date: October 1, 2019
Individual/Entity: **Canaan Pointe Limited Partnership**
Facility: Canaan Pointe
Location: 200 Canaan Pointe Drive
Spartanburg, SC 29306
Mailing Address: Same
County: Spartanburg
Previous Orders: 16-134-RW (\$680.00)
Permit/ID Number: 42-186-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Canaan Pointe Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 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; a skimmer lid was cracked; there were no paper towels in the bathroom; the drinking water fountain was not operating properly; the foot rinse shower was not operating properly; the pool equipment room piping was leaking;

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

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.

16) Order Type and Number: Consent Order 19-183-RW
Order Date: October 1, 2019
Individual/Entity: **Sandpebble Beach Club Interval Owners Association, Inc.**
Facility: Sandpebble Condominiums
Location: 1011 South Ocean Boulevard
Surfside Beach, SC 29575
Mailing Address: 2001 South Ocean Boulevard
Myrtle Beach, SC 29577
County: Horry
Previous Orders: None
Permit/ID Number: 26-Q43-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sandpebble Beach Club Interval Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 4, 2019, and July 15, 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 gate did not self-close and latch; the main drain grates were broken; the spa rules sign was not completely filled out and was not legible; only one "No Lifeguard On Duty – Swim At You 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**).

17) Order Type and Number: Consent Order 19-185-RW
Order Date: October 1, 2019
Individual/Entity: **Bhavish, LLC**
Facility: Super 8 Motel
Location: 1832 ½ West Lucas Street
Florence, SC 29501
Mailing Address: Same
County: Florence
Previous Orders: None
Permit/ID Number: 21-119-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Bhavish, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 10, 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 floats were not properly spaced; the lifeline was deteriorated; a ladder was missing bumpers; the pool furniture was not at least four feet from the edge of the pool; the pool floor was not clean; the depth marker tiles at the waterline were not the appropriate size; the pump room was 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 emergency notification device was not operating; 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; the disinfection equipment was not operating; and, the recirculation and filtration system was not operating.

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

18)	<u>Order Type and Number:</u>	Consent Order 19-186-RW
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Maniben, LLC
	<u>Facility:</u>	Quality Inn & Suites
	<u>Location:</u>	7251 Garners Ferry Road Columbia, SC 29209
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	40-356-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Maniben, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 28, 2019, July 12, 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: a handrail was missing a bolt cover; the water level was too low; a skimmer was missing a weir; the plaster on the pool floor was chipped and had sharp edges; 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 in place; the bound and numbered log book was not available for review during the first inspection; and, the bound and numbered log book was not maintained on a daily basis during the second inspection.

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

19)	<u>Order Type and Number:</u>	Consent Order 19-187-RW
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Cliff Ridge Colony Homeowners Association, Inc.
	<u>Facility:</u>	Cliff Ridge Colony
	<u>Location:</u>	200 Rhododendron Drive Cleveland, SC 29635
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-245-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Cliff Ridge Colony Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 10, 2019, July 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 lifeline was not attached to the pool wall on the first inspection; the lifeline floats were not properly spaced and were damaged on the second inspection; the lifeline floats were not properly spaced on the third inspection; a ladder was missing bumpers; 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 two thousand, forty dollars **(\$2,040.00)**.

20) Order Type and Number: Consent Order 19-188-RW
Order Date: October 1, 2019
Individual/Entity: **Andover Park Apartments Limited Partnership**
Facility: Andover Park
Location: 831 Cleveland Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: 23-142-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Andover Park Apartments Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 19, 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 a bolt cover and rungs; the pool floor was not clean; there was debris in the skimmer baskets; the foot rinse shower was missing; 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)**.

21) Order Type and Number: Consent Order 19-189-RW
Order Date: October 1, 2019
Individual/Entity: **Woodstream Farms Apartments Limited Partnership**
Facility: Woodstream Farms Apartments
Location: 200 Mitchell Drive
Greenville, SC 29615
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: 23-110-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Woodstream Farms Apartments Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 2, 2019, and August

6, 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**).

22) Order Type and Number: Consent Order 19-184-RW
 Order Date: October 2, 2019
 Individual/Entity: **Forest Oaks Apartments (SC) Owner, LLC**
 Facility: Forest Oaks Apartments
 Location: 1878 Gingercake Circle
 Rock Hill, SC 29732

 Mailing Address: Same
 County: York
 Previous Orders: 17-128-RW (\$680.00);
 18-168-RW (\$1,360.00)

 Permit/ID Number: 46-159-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Forest Oaks Apartments (SC) Owner, 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: there was debris in the skimmer baskets; a skimmer was missing a weir; the flow meter was not operating properly; a ladder was missing non-slip tread inserts; the bathroom did not have paper towels; 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, the cyanuric acid level was not checked weekly.

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.

23) Order Type and Number: Consent Order 19-190-RW
 Order Date: October 2, 2019
 Individual/Entity: **KLSV Hotels & Investments, LLC**
 Facility: Quality Inn & Suites
 Location: 2625 Cherry Road
 Rock Hill, SC 29730

 Mailing Address: Same
 County: York
 Previous Orders: 17-108-RW (\$340.00)
 Permit/ID Number: 46-036-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: KLSV Hotels & Investments, 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 lifeline floats were not properly spaced; the pool wall had tiles that were chipped; the drinking water fountain

was not operating properly; there was no foot rinse shower; the flow meter was not operating properly; a gate did not self-close and latch; the life ring rope was deteriorated; the log book was not properly bound and numbered; the bound and numbered log book 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 recirculation system was not operating properly.

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

24) Order Type and Number: Consent Order 19-191-RW
Order Date: October 2, 2019
Individual/Entity: **Hotel 2650, LLC**
Facility: Towne Place Suites
Location: 2650 Hospitality Boulevard
Florence, SC 29501
Mailing Address: Same
County: Florence
Previous Orders: None
Permit/ID Number: 21-1026B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Hotel 2650, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 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 pool furniture was not at least four feet from the edge of the pool; a skimmer basket was broken; the chlorine and pH levels were not within the acceptable range of water quality standards; 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 six hundred eighty dollars (**\$680.00**).

25) Order Type and Number: Consent Order 19-192-RW
Order Date: October 2, 2019
Individual/Entity: **Foxfire Motel Properties, LLC**
Facility: Days Inn Beach Front
Location: 1403 South Ocean Boulevard
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 18-048-RW (\$2,040.00);
18-233-RW (\$1,700.00)
Permit/ID Number: 26-H81-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Foxfire Motel Properties, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 23, 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 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 two thousand, seven hundred twenty dollars (**\$2,720.00**).

26) Order Type and Number: Consent Order 19-193-RW
Order Date: October 3, 2019
Individual/Entity: **Regal Manor Homeowners' Association, Inc.**
Facility: Regal Manor
Location: 549 Starlight Drive
Fort Mill, SC 29715
Mailing Address: 1612 Military Cut Off Road, Suite 108
Wilmington, NC 28403
County: York
Previous Orders: None
Permit/ID Number: 46-1084B & 46-1085C
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Regal Manor Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a 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 foot rinse shower was not operating; the flow meter was not operating; 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; there were unlabeled chemicals in the pump room; the cyanuric acid level was not recorded a minimum of once per week in the bound and numbered log book; 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 thousand, three hundred sixty dollars (**\$1,360.00**).

27) Order Type and Number: Consent Order 19-194-RW
Order Date: October 3, 2019
Individual/Entity: **National Health Investors, Inc.**
Facility: Cascade Verdae
Location: 10 Fountainview Terrace
Greenville, SC 29607
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: 23-1148D
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: National Health Investors, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On March 15, 2019, June 20, 2019, and July 26, 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.

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

28) Order Type and Number: Consent Order 19-195-RW
Order Date: October 4, 2019
Individual/Entity: **Param Hospitality Group, LLC**
Facility: Days Inn
Location: 875 Riverview Road
Rock Hill, SC 29730
Mailing Address: Same
County: York
Previous Orders: None
Permit/ID Number: 46-075-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Param Hospitality Group, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 28, 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: the water was cloudy; there was debris in the skimmer baskets; a skimmer basket was broken; a skimmer was missing a weir; the flow meter was not operating properly; a gate did not self-close and latch; 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 main drain grates were not visible due to cloudy water; the life ring was deteriorated and did not have a permanently attached rope; the shepherd's crook was not visible; the emergency notification device was not approved and was not within two hundred feet of the pool; the facility address was not posted at the 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; a ladder was missing non-slip tread inserts; and, the drinking water fountain was not within fifty feet of the pool.

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

29) Order Type and Number: Consent Order 19-196-RW
Order Date: October 7, 2019
Individual/Entity: **GrayBul GateWay, LP**
Facility: Gateway at Rock Hill
Location: 820 Sebring Drive
Rock Hill, SC 29730
Mailing Address: 200 East Broad Street, Suite 220
Greenville, SC 29601
County: York
Previous Orders: None
Permit/ID Number: 46-1131B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: GrayBul GateWay, LP (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 pool walls were dirty; there was debris in the skimmer baskets; the bathrooms did not have toilet paper; the pH level was not within

the acceptable range of water quality standards; the "Shallow Water – No Diving Allowed" signs were obstructed; the "No Lifeguard On Duty – Swim At Your Own Risk" signs were obstructed and did not have the correct size lettering; the bound and numbered log book was not maintained on a daily basis; and, the cyanuric acid level was not checked weekly.

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 19-197-RW
 Order Date: October 7, 2019
 Individual/Entity: **Marsh Manor Property Owners Association**
 Facility: Marsh Manor
 Location: 902 Sea Mountain Highway
 North Myrtle Beach, SC 29582

 Mailing Address: Same
 County: Horry
 Previous Orders: None
 Permit/ID Number: 26-B45-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Marsh Manor Property Owners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 7, 2019, and July 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; the pool deck was uneven with sharp edges; 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**).

31) Order Type and Number: Consent Order 19-198-RW
 Order Date: October 8, 2019
 Individual/Entity: **Midas Clemson, LLC**
 Facility: Courtyard Marriott
 Location: 201 Canoy Lane
 Clemson, SC 29631

 Mailing Address: 1804 Borman Circle Drive
 St. Louis, MO 63146

 County: Pickens
 Previous Orders: None
 Permit/ID Number: 39-1058B
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Midas Clemson, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 11, 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: the chlorine and pH levels were not within the acceptable range of water quality standards; 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.

32) Order Type and Number: Consent Order 19-199-RW
 Order Date: October 8, 2019
 Individual/Entity: **Gulf Stream Villas Homeowners
 Association, Inc.**
 Facility: Gulf Stream Villas Condos
 Location: 1601 South Waccamaw Drive
 Garden City, SC 29576
 Mailing Address: Same
 County: Georgetown
 Previous Orders: None
 Permit/ID Number: 22-108-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Gulf Stream Villas Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 14, 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 gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; the emergency notification device was not operational; the current pool operator of record information was not posted to the public; and, the lifeline floats were not properly spaced.

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 19-200-RW
 Order Date: October 8, 2019
 Individual/Entity: **Highpointe of Clemson Owners'
 Association, Inc.**
 Facility: The View at the Pier
 Location: 145 Highpointe Boulevard
 Seneca, SC 29678
 Mailing Address: Same
 County: Oconee
 Previous Orders: None
 Permit/ID Number: 37-1012B, 37-1014B, & 37-1013D
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Highpointe of Clemson Owners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool, lazy river, and a spa. On June 12, 2019, and August 1, 2019, the pool, lazy river, 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: there was debris in the skimmer baskets; a gate did not self-close and latch; there was a hole in the perimeter fence with openings greater than four inches; the shepherd's crook bolt was reversed; the pool rules sign was not completely filled out; the bound and numbered log book was not maintained on a daily basis; there was a large open hole in the ground in the pool area that posed a hazard; depth marker tiles at the water line were missing and were cracked; a ladder had a broken rung; there was no life ring; there was no shepherd's crook at the lazy river; the "No Lifeguard On Duty – Swim At Your Own Risk" signs were obstructed;

there was no spa thermometer; the chlorine level was not within the acceptable range of water quality standards; and, a handrail was not tight and secure.

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

34) Order Type and Number: Consent Order 19-201-RW
Order Date: October 8, 2019
Individual/Entity: **Young Men's Christian Association of the Upper Pee Dee**
Facility: Chesterfield Family YMCA
Location: 344 East Boulevard
Chesterfield, SC 29709
Mailing Address: Same
County: Chesterfield
Previous Orders: None
Permit/ID Number: 13-1002B & 13-1003C
Violations Cited: 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 and a kiddie pool. On July 29, 2019, and August 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 with floats was not attached to the pool wall; depth marker tiles at the water line were missing; the water level was too low; the pump room was open to the public; the gate did not self-close and latch; 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 and it was not maintained a minimum of three times per week by the pool operator of record; the emergency notification device was not operating; 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 one thousand, three hundred sixty dollars **(\$1,360.00)**.

35) Order Type and Number: Consent Order 19-202-RW
Order Date: October 8, 2019
Individual/Entity: **Mani, Inc.**
Facility: Holiday Inn Express Hotel & Suites
Location: 118 Sleep Inn Drive
Orangeburg, SC 29118
Mailing Address: Same
County: Orangeburg
Previous Orders: None
Permit/ID Number: 38-083-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Mani, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On February 22, 2019, June 24, 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: a ladder was missing a bolt cover; skimmers were missing weirs and the baskets were broken; the pool

equipment room piping was leaking; the chlorine and pH levels were not within the acceptable range of water quality standards; the emergency notification device was not operational and the physical address of the pool was not displayed; the pool rules sign was 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 two thousand, forty dollars **(\$2,040.00)**. The civil penalty has been paid.

36) Order Type and Number: Consent Order 19-203-RW
Order Date: October 8, 2019
Individual/Entity: **Hutch & Hutch Properties, LLC**
Facility: Holly Hill Country Club
Location: 9159 Old State Road
Holly Hill, SC 29059
Mailing Address: Same
County: Orangeburg
Previous Orders: None
Permit/ID Number: 38-003-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Hutch & Hutch Properties, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 1, 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: a ladder was not tight and secure; non-pool related items were stored in the pool equipment room and it was unlocked; the gate did not self-close and latch; the pH level was not within the acceptable range of water quality standards; the life ring was not properly hung in its designated location; the emergency notification device was not approved and the physical address of the pool was not displayed; 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)**.

37) Order Type and Number: Consent Order 19-204-RW
Order Date: October 14, 2019
Individual/Entity: **Willow Run Condominium Homeowners Association, Inc.**
Facility: Willow Run Condominiums
Location: 2000 Greens Boulevard
Myrtle Beach, SC 29577
Mailing Address: 1810 Greens Boulevard, Unit 104
Myrtle Beach, SC 29577
County: Horry
Previous Orders: None
Permit/ID Number: 26-517-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Willow Run Condominium Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 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:

there were damaged floats on the lifeline; a ladder was not tight and secure; a ladder was missing bumpers; a gate did not self-close and latch; the life ring was deteriorated; a skimmer was missing a weir; and, the bathrooms were not accessible.

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)	<u>Order Type and Number:</u>	Consent Order 19-206-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	Saluda Valley Country Club
	<u>Facility:</u>	Saluda Valley Country Club
	<u>Location:</u>	598 Beaverdam Road Williamston, SC 29697
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	16-058-RW (\$340.00, 04-100-1)
	<u>Permit/ID Number:</u>	04-099-1 & 04-100-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Saluda Valley Country Club (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 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 gate did not self-close and latch; the life ring was deteriorated; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; the recirculation and filtration system was leaking; the water level was too high; the main drain grate was not in place; the lifeline floats were not properly spaced; a ladder was not tight and secure; a bathroom was dirty and did not have toilet paper, soap, paper towels, or a hand dryer; 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 two thousand, forty dollars (**\$2,040.00**). The civil penalty has been paid.

39)	<u>Order Type and Number:</u>	Consent Order 19-207-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	PRG Beckett Farms, LLC
	<u>Facility:</u>	Beckett Farms
	<u>Location:</u>	1111 Gennett Circle Fort Mill, SC 29715
	<u>Mailing Address:</u>	Same
	<u>County:</u>	York
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	46-1173B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: PRG Beckett Farms, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 26, 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: a skimmer was missing a weir; a 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; the “No Lifeguard On Duty – Swim At Your Own Risk” signs did not have the correct size lettering; the current pool operator of record information was not posted to the public; and, the log book was not properly bound and numbered. On August 13, 2019, a follow-up inspection was conducted, and it was determined that all of the deficiencies had been addressed.

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.

40)	<u>Order Type and Number:</u>	Consent Order 19-208-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	Santee-Cooper Resort, Incorporated
	<u>Facility:</u>	Lake Marion Golf Villas Apartments
	<u>Location:</u>	100 Bogey Boulevard Santee, SC 29142
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Orangeburg
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	38-1030B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Santee-Cooper Resort, Incorporated (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 28, 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; 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 not clear of obstructions; the pool rules sign did not have all of the required rules; the “No Lifeguard On Duty – Swim At Your Own Risk” signs were obstructed; 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**).

41)	<u>Order Type and Number:</u>	Consent Order 19-209-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	Gauri, LLC
	<u>Facility:</u>	Quality Inn & Suites Santee
	<u>Location:</u>	8929 Old Number Six Highway Santee, SC 29142
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Orangeburg
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	38-028-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Gauri, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 14, 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 ladder was not tight and secure and a bolt cover was in disrepair; the pool floor was not clean; the pool walls were not clean and there was dirt and oil on the waterline tiles; algae was present on

the walls and floor of the pool; the plaster on the pool floor was chipped; the deck was not clean or clear of hazards; there was debris in the skimmer baskets; the water level was too high; skimmers were missing weirs; the drinking water fountain and foot rinse shower were not operating properly; 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 on the first inspection, and was not United States Coast Guard approved on the second inspection; the physical address of the pool was not posted at the emergency notification device and was not water resistant; the pool rules sign was cracked and faded; one of the "No Lifeguard On Duty – Swim At Your Own Risk" signs was damaged; 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**).

42)	<u>Order Type and Number:</u>	Consent Order 19-210-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	Keyaom, LLC
	<u>Facility:</u>	Baymont Inn
	<u>Location:</u>	2350 Chestnut Street Orangeburg, SC 29116
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Orangeburg
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	38-070-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Keyaom, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 26, 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 deck depth marker tiles were not non-slip finished; a ladder was missing bumpers and non-slip tread inserts; a bolt cover was in disrepair; the pool walls were not clean and there was dirt and oil on the waterline tiles; 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; there was debris in the skimmer baskets; the drinking water fountain and foot rinse shower were not operating properly; 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" and "No Lifeguard On Duty – Swim At Your Own Risk" signs were cracked and damaged; 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**).

43)	<u>Order Type and Number:</u>	Consent Order 19-211-RW
	<u>Order Date:</u>	October 14, 2019
	<u>Individual/Entity:</u>	Magnolia Place of Charleston, LLC
	<u>Facility:</u>	Magnolia Place Apartments
	<u>Location:</u>	101 Hutson Drive Summerville, SC 29483
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Dorchester

Previous Orders: None
Permit/ID Number: 18-078-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Magnolia Place of Charleston, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 4, 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: tiles were missing on the pool wall; a skimmer was missing a weir; the foot rinse shower was not operating properly; a gate did not self-close and latch; the bound and numbered log book was not maintained on a daily basis; the pool equipment room was not locked; 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**).

44) Order Type and Number: Consent Order 19-217-RW
Order Date: October 14, 2019
Individual/Entity: **Nalini Hospitality, LLC**
Facility: Quality Inn
Location: Highway 1 at I-26
West Columbia, SC 29169
Mailing Address: 2516 Augusta Road
West Columbia, SC 29169
County: Lexington
Previous Orders: None
Permit/ID Number: 32-120-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Nalini Hospitality, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 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 ladder was missing bumpers; a skimmer was missing a weir; the pool walls were not clean; there was no drinking water fountain at the time of the June 5, 2019 inspection; the drinking water fountain was not operating properly at the time of the July 8, 2019 inspection; there was no foot rinse shower; 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 did not have the correct wording; the facility could not produce current valid documentation for the pool operator of record; 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**).

45) Order Type and Number: Consent Order 19-218-RW
Order Date: October 15, 2019
Individual/Entity: **PEP-USC, LLC**
Facility: Cayce Cove Apartments
Location: 215 Spencer Place
Cayce, SC 29033
Mailing Address: 8880 Rio San Diego Drive, Suite 750

<u>County:</u>	San Diego, CA 72108
<u>Previous Orders:</u>	Lexington
<u>Permit/ID Number:</u>	None
<u>Violations Cited:</u>	32-1010B & 32-1011D S.C. Code Ann. Regs. 61-51(J)

Summary: PEP-USC, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On June 4, 2019, July 9, 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 and the waterline depth marker tiles were not visible due to the high water level on the first inspection; a ladder was missing bumpers; a ladder was missing a non-slip tread insert; the water level was too low on the second inspection; a skimmer was missing a weir; there was algae on the pool walls; pipes were leaking in the equipment room; 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 not in place; the emergency notification device was not operating; there were no "Shallow Water – No Diving Allowed" signs posted; the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording or correct size letters; the facility address was not posted at the emergency notification device; there was no thermometer in the spa; the pool was green; 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 four thousand, eighty dollars (**\$4,080.00**). The civil penalty has been paid.

46) <u>Order Type and Number:</u>	Consent Order 19-212-RW
<u>Order Date:</u>	October 17, 2019
<u>Individual/Entity:</u>	Villas Holdings 144 DE, LLC
<u>Facility:</u>	Villas at Regal Manor Regent Park
<u>Location:</u>	1069 Chateau Crossing Drive Fort Mill, SC 29715
<u>Mailing Address:</u>	Same
<u>County:</u>	York
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	46-1184B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Villas Holdings 144 DE, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 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: skimmer baskets were missing on the first inspection; there was debris in the skimmer baskets on the second inspection; the shepherd's crook was not permanently attached to the handle; the pool rules sign did not have all of the required rules on the first inspection; the pool rules sign was not completely filled out on the second inspection; the bound and numbered log book was not available for review; a handrail was missing a bolt cover; the bathrooms were not clean; the drinking water fountain was not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; 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.

47) Order Type and Number: Consent Order 19-213-RW
Order Date: October 17, 2019
Individual/Entity: **Ballards Pointe III, LLC**
Facility: Wyndham Lake Marion Resort
Location: 401 Bass Drive
Santee, SC 29142
Mailing Address: Same
County: Orangeburg
Previous Orders: None
Permit/ID Number: 38-1023B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Ballards Pointe III, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 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 handrail was not tight and secure; the pool walls were not clean and there was dirt and oil on the waterline tiles; algae was present on the walls and floor of the pool; skimmers were missing weirs; the foot rinse shower was not operating properly; the automatic controller was not permitted, not in use, and had not been removed; unapproved test strips were being used to test the water quality; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring was not accessible; 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; the disinfection equipment was not operating properly; the recirculation and filtration system pump was filled with leaves; 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**).

48) Order Type and Number: Consent Order 19-214-RW
Order Date: October 17, 2019
Individual/Entity: **Rock Hill Holdings 160, LLC**
Facility: The Villas at Riverview
Location: 1364 Riverview Road
Rock Hill, SC 29732
Mailing Address: Same
County: York
Previous Orders: None
Permit/ID Number: 46-034-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Rock Hill Holdings 160, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 12, 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: the lifeline floats were not properly spaced; a ladder was missing non-slip tread inserts; the plaster on the pool floor was chipped; 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 on the first inspection, and the water level was too low on the second inspection; the bathrooms did not have soap, toilet paper, or paper towels; the foot rinse shower was not operating properly; a 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 water; the shepherd's crook was missing a bolt; the

bound and numbered log book was not maintained on a daily basis, the cyanuric acid level was not recorded on a weekly basis in the bound and numbered log book; 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.

49) Order Type and Number: Consent Order 19-215-RW
 Order Date: October 17, 2019
 Individual/Entity: **Sunrise Hotels of Coralville, LLC**
 Facility: Country Inn & Suites
 Location: 2756 Laurens Road
 Greenville, SC 29607
 Mailing Address: 10415 Centrum Parkway
 Pineville, NC 28134
 County: Greenville
 Previous Orders: None
 Permit/ID Number: 23-133-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sunrise Hotels of Coralville, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 25, 2019, and August 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 non-slip tread inserts; there was no foot rinse shower; the chlorine level was not within the acceptable range of water quality standards; the shepherd’s crook was missing a bolt; 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 log book was not properly bound and numbered; and, the depth marker tiles did not have the appropriate size letters and numbers.

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

50) Order Type and Number: Consent Order 19-216-RW
 Order Date: October 17, 2019
 Individual/Entity: **Shoreline Villas Homeowners**
 Association, Inc.
 Facility: Shoreline Villas
 Location: 801 South Ocean Boulevard
 North Myrtle Beach, SC 29582
 Mailing Address: Same
 County: Horry
 Previous Orders: None
 Permit/ID Number: 26-816-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Shoreline Villas Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 22, 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: a handrail and a ladder were missing bolt covers; a skimmer was missing a weir; the drinking water

fountain was not operating; 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 and the life ring rope were deteriorated on the first inspection, and the life ring rope was too short on the second inspection; the cyanuric acid level readings were not being recorded on a weekly basis in the bound and numbered log book; 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**).

51)	<u>Order Type and Number:</u>	Consent Order 19-205-RW
	<u>Order Date:</u>	October 21, 2019
	<u>Individual/Entity:</u>	Roper Apartment Management, LLC
	<u>Facility:</u>	Roper Mountain Woods Apartments
	<u>Location:</u>	100 Turtle Creek Drive Greenville, SC 29615
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	23-415-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Roper Apartment Management, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 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: bolt covers were in disrepair; there was debris in the skimmer baskets; the bathrooms did not have soap; the drinking water fountain was not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the cyanuric acid level was above the water quality standards acceptable limit.

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

52)	<u>Order Type and Number:</u>	Consent Order 19-219-RW
	<u>Order Date:</u>	October 21, 2019
	<u>Individual/Entity:</u>	SRI SAI, LLC
	<u>Facility:</u>	Days Inn by Wyndham Seneca
	<u>Location:</u>	11015 North Radio Station Road Seneca, SC 29678
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Oconee
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	37-035-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: SRI SAI, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 27, 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: a ladder was missing bumpers; the foot rinse shower was not operating properly; the pH level was not within the acceptable range of water quality standards; the life ring was deteriorated, was not United States Coast Guard approved, and

the life ring did not have a permanently attached rope; the emergency notification device was not operational; and, one of the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct size lettering.

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) Order Type and Number: Consent Order 19-220-RW
 Order Date: October 21, 2019
 Individual/Entity: **Sunset Harbour Property Owners
Association, Inc.**
 Facility: Sunset Harbour Amenity Center
 Location: 1803 Waterway Drive
 North Myrtle Beach, SC 29582
 Mailing Address: Same
 County: Horry
 Previous Orders: None
 Permit/ID Number: 26-R08-1 & 26-R09-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sunset Harbour Property Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a spa. On May 23, 2019, June 24, 2019, and July 29, 2019, the pool was inspected, and violations were issued for failure to properly operate and maintain. On June 24, 2019, and July 29, 2019, the spa was 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 pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; a bolt cover was in disrepair; a skimmer was missing a weir; the life ring was deteriorated; the bound and numbered log book was not maintained on a daily basis; the chlorine level was not within the acceptable range of water quality standards; the spa temperature was not posted to the public; and, the main drain grates were broken.

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.

54) Order Type and Number: Consent Order 19-221-RW
 Order Date: October 21, 2019
 Individual/Entity: **BCH, LLC**
 Facility: Knights Inn St. George
 Location: 114 Winningham Road
 St. George, SC 29477
 Mailing Address: Same
 County: Dorchester
 Previous Orders: None
 Permit/ID Number: 18-074-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: BCH, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 21, 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 bumpers; a gate did not

self-close and latch; the chlorine level was not within the acceptable range of water quality standards; and, the life ring was deteriorated.

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

55) Order Type and Number: Consent Order 19-223-RW
 Order Date: October 21, 2019
 Individual/Entity: **The Oaks at Winyah Bay Association, Inc.**
 Facility: The Oaks at Winyah Bay
 Location: 148 Oak Bay Drive
 Georgetown, SC 29440

 Mailing Address: Same
 County: Georgetown
 Previous Orders: None
 Permit/ID Number: 22-1050D
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: The Oaks at Winyah Bay Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On July 1, 2019, July 18, 2019, and August 14, 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: depth marker tiles on the spa wall were missing; the water level was too high; the gate did not self-close and latch; the chlorine and pH levels were 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**).

56) Order Type and Number: Consent Order 19-222-RW
 Order Date: October 22, 2019
 Individual/Entity: **Sandtrap and Robinson, Inc.**
 Facility: Robinson Cottage
 Location: 211 31st Avenue North
 North Myrtle Beach, SC 29577

 Mailing Address: 500 Main Street
 North Myrtle Beach, SC 29582

 County: Horry
 Previous Orders: None
 Permit/ID Number: 26-R12-1
 Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sandtrap and Robinson, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. 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: a handrail was not tight and secure; the gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; 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.

57) Order Type and Number: Consent Order 19-224-RW
Order Date: October 22, 2019
Individual/Entity: **Harbourgate Resort Homeowners' Association, Inc.**
Facility: Harbourgate Resort
Location: 2120 Sea Mountain Highway
North Myrtle Beach, SC 29582
Mailing Address: 124 Highway 17 South
North Myrtle Beach, SC 29582
County: Horry
Previous Orders: None
Permit/ID Number: 26-1396D
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Harbourgate Resort Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On July 1, 2019, and July 29, 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**).

58) Order Type and Number: Consent Order 19-225-RW
Order Date: October 22, 2019
Individual/Entity: **Grainger Family Limited Partnership**
Facility: Village at Bay Tree
Location: Highway 9
North Myrtle Beach, SC 29582
Mailing Address: 1620 Highway 646
Loris, SC 29569
County: Horry
Previous Orders: None
Permit/ID Number: 26-B41-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Grainger Family Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 30, 2019, June 19, 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 life ring rope was deteriorated; the bound and numbered log book was not maintained on a daily basis; the chlorine level was not within the acceptable range of water quality standards; and, the main drain grate was not in place.

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

59) Order Type and Number: Consent Order 19-226-RW
Order Date: October 22, 2019
Individual/Entity: **Kirtan Hospitality, Inc.**
Facility: Comfort Inn & Suites
Location: 110 Birchtree Drive
Greenwood, SC 29649
Mailing Address: Same
County: Greenwood
Previous Orders: 16-139-RW (\$680.00)
Permit/ID Number: 24-051-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Kirtan Hospitality, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 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 drinking water fountain was not operating; the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; there was no main drain grate; the life ring did not have a permanently attached rope on the first inspection; the life ring was not United States Coast Guard approved on the second inspection; there was no emergency notification device; only one "Shallow Water – No Diving Allowed" sign was posted; the bound and numbered log book was not available for review; a bolt cover was missing; the deck drain was broken; and, there were chlorine tablets in the skimmer baskets.

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

60) Order Type and Number: Consent Order 19-228-RW
Order Date: October 22, 2019
Individual/Entity: **C & S, LLC**
Facility: Knights Inn
Location: 1850 Richland Avenue West
Aiken, SC 29801
Mailing Address: Same
County: Aiken
Previous Orders: None
Permit/ID Number: 02-028-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: C & S, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 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 lifeline floats were not properly spaced; the lifeline did not have the minimum number of floats required; a bolt cover was missing; a ladder was missing bumpers; the pool walls were dirty; skimmers were missing weirs; the drinking water fountain and foot rinse shower were not operating properly; 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 bound and numbered log book was not maintained on a daily basis; and, a light in the pool wall was out of its niche.

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

61) Order Type and Number: Consent Order 19-229-RW
Order Date: October 22, 2019
Individual/Entity: **Mid-America Apartments, L.P.**
Facility: Spring Creek Apartments
Location: 10 Capewood Road
Simpsonville, SC 29680
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: 23-262-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Mid-America Apartments, L.P. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 28, 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: the lifeline floats were not properly spaced; 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; the cyanuric acid level was not checked weekly; and, tiles were missing on the pool wall.

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

62) Order Type and Number: Consent Order 19-227-RW
Order Date: October 23, 2019
Individual/Entity: **Woodside Plantation Country Club, Inc.**
Facility: Woodside Plantation Country Club
Location: 1000 Woodside Plantation Drive
Aiken, SC 29803
Mailing Address: Same
County: Aiken
Previous Orders: None
Permit/ID Number: 02-076-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)(10)

Summary: Woodside Plantation Country Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On September 20, 2019, Department staff conducted an inspection of the pool as the result of a complaint that an incident requiring an EMS response, emergency room visit, or hospitalization had occurred at the pool on September 8, 2019. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: failed to report to the Department in writing, on a Department approved form, any death, injury, or accident requiring an EMS response, emergency room visit, or hospitalization within seventy-two hours of the occurrence.

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

63)	<u>Order Type and Number:</u>	Consent Order 19-231-RW
	<u>Order Date:</u>	October 24, 2019
	<u>Individual/Entity:</u>	St. Philip's Place Homeowner's Association, Inc.
	<u>Facility:</u>	St. Philip's Place
	<u>Location:</u>	99 St. Philip Street Charleston, SC 29403
	<u>Mailing Address:</u>	106 Pitt Street Mount Pleasant, SC 29464
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-229-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: St. Philip's Place Homeowner's Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 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 emergency notification device was not operational; there was no pool rules sign; 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; the disinfection equipment was not in operable condition; the recirculation and filtration system was not operating properly; the automatic controller was not operating; there were chlorine sticks in the skimmer baskets; the lifeline floats were damaged; 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.

64)	<u>Order Type and Number:</u>	Consent Order 19-232-RW
	<u>Order Date:</u>	October 24, 2019
	<u>Individual/Entity:</u>	South Shores Homeowners Association, Inc., Individually and d.b.a. South Shores I
	<u>Facility:</u>	South Shores I
	<u>Location:</u>	1119 South Ocean Boulevard Surfside Beach, SC 29577
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	18-142-RW (\$340.00)
	<u>Permit/ID Number:</u>	26-937-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: South Shores Homeowners Association, Inc., Individually and d.b.a. South Shores I (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 5, 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 ladder was not tight and secure; 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; and, the life ring rope was too short.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand, one hundred twenty dollars (**\$1,120.00**). The civil penalty has been paid.

65) Order Type and Number: Consent Order 19-233-RW
Order Date: October 24, 2019
Individual/Entity: **Lila Group, LLC**
Facility: Travelodge
Location: 9117 Old Number Six Highway
Santee, SC 29142
Mailing Address: Same
County: Orangeburg
Previous Orders: None
Permit/ID Number: 38-075-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Lila Group, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 1, 2019, and August 6, 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 and non-slip tread inserts; the plaster on the pool floor was chipped; the pool walls were not clean and there was dirt and oil on the waterline tiles; algae was present on the walls and floor of the pool; the drinking water fountain and foot rinse shower were not operating properly; the life ring was not clear of obstructions; the pool rules sign was not completely filled out; the "No Lifeguard On Duty – Swim At Your Own Risk" signs were damaged; 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**).

66) Order Type and Number: Consent Order 19-234-RW
Order Date: October 24, 2019
Individual/Entity: **George Cut It, Inc.**
Facility: Mermaid Inn
Location: 5400 North Ocean Boulevard
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 17-006-RW (\$680.00)
Permit/ID Number: 26-326-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: George Cut It, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2019, July 12, 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 a bumper; the pool floor was dirty; 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 was deteriorated; 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, three hundred sixty dollars (**\$3,360.00**). The civil penalty has been paid.

67) Order Type and Number: Consent Order 19-235-RW
Order Date: October 24, 2019
Individual/Entity: **Council of Co-Owners, Duneside Horizontal Property Regime III**
Facility: Duneside III
Location: 116 South Waccamaw Drive
Garden City, SC 29576
Mailing Address: P.O. Box 14280
Surfside Beach, SC 29587
County: Horry
Previous Orders: None
Permit/ID Number: 26-J17-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Council of Co-Owners, Duneside Horizontal Property Regime III (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 14, 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 cyanuric acid level was above the water quality standards acceptable limit; the life ring was deteriorated; 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**).

68) Order Type and Number: Consent Order 19-230-RW
Order Date: October 25, 2019
Individual/Entity: **NCSC Myrtle Beach Owner, LLC**
Facility: Fairfield Inn by Marriott Myrtle Beach North
Location: 10231 North Kings Highway
Myrtle Beach, SC 29572
Mailing Address: 200 West 41st Street, Suite 602
New York, NY 10036
County: Horry
Previous Orders: None
Permit/ID Number: 26-L93-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: NCSC Myrtle Beach Owner, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 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 filtration system was not operating properly; the chlorine level was not within the acceptable range of water quality standards; the life ring did not have a permanently attached rope; 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.

69) Order Type and Number: Consent Order 19-237-RW
Order Date: October 25, 2019
Individual/Entity: **Phu Hwy 76 Clemson, LLC**
Facility: Grand Marc
Location: 125 Anderson Hwy
Clemson, SC 29631
Mailing Address: 1749 Marcia Louise Drive
South Haven, MS 38672
County: Pickens
Previous Orders: None
Permit/ID Number: 39-1087D
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Phu Hwy 76 Clemson, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 10, 2019, and August 12, 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 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**). The civil penalty has been paid.

Drinking Water Enforcement

70) Order Type and Number: Consent Order 19-020-DW
Order Date: October 3, 2019
Individual/Entity: **Town of Allendale**
Facility: Town of Allendale
Location: 1296 South Main Street
Allendale, SC 29810
Mailing Address: P.O. Box 551
Allendale, SC 29810
County: Allendale
Previous Orders: None
Permit/ID Number: 0310001
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)(b),
and 61-58.17.I(2)(a)

Summary: Town of Allendale (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On August 26, 2019, a violation was issued as a result of review of monitoring records; and, on August 26, 2019, a violation was issued for failure to notify the Department. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS tested present for total coliform and E. coli, which resulted in a violation of the maximum contaminant level (MCL) for E. coli; and, failed to notify the Department by the end of the day when the system was notified of an E. coli present test result.

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

71) Order Type and Number: Consent Order 19-021-DW
Order Date: October 14, 2019
Individual/Entity: **The Whitfield Company, LLC**
Facility: Dollar General – McClellanville
Location: 10141 Highway 17 North
McClellanville, SC 29458
Mailing Address: 6518 Dorchester Road
North Charleston, SC 29418
County: Charleston
Previous Orders: None
Permit/ID Number: 1070008
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)(a)

Summary: The Whitfield Company, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On September 12, 2019, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS tested present for total coliform and E. coli, which resulted in a violation of the maximum contaminant level (MCL) for E. coli.

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

72) Order Type and Number: Consent Order 19-022-DW
Order Date: October 29, 2019
Individual/Entity: **Town of Latta**
Facility: Town of Latta
Location: 107 NW Railroad Avenue
Latta, SC 29565
Mailing Address: Same
County: Dillon
Previous Orders: 18-026-DW (\$2,000.00)
Permit/ID Number: 1710002
Violations Cited: S.C. Code Ann. Regs. 61-58.7

Summary: The Town of Latta (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On June 27, 2019, the PWS was inspected and rated unsatisfactory for failure to properly operate and maintain. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: there were galvanized water lines causing discolored water; fire flow testing had not been completed; system valves had not been located and mapped, and no records had been submitted to document testing of the valves; the PWS was not adequately staffed to manage the leak detection and repair program; the Diversified Plastics elevated storage tank had a leak between the riser and the bowl;

a water audit had not been completed; and, deficiencies from the previous survey were not corrected.

Action: The Individual/Entity is required to: obtain the required construction permit and construct a new three hundred thousand gallon elevated storage tank; complete the required maintenance and flow testing on each of the remaining fifty-six fire hydrants, and submit the flow testing results for review and approval; submit documentation identifying all of the two hundred fifty-one valves, and submit a valve and hydrant maintenance program for review and approval; submit a written request of the intended use of two out-of-service wells at the PWS; complete construction of the Highway 301 Water Line Replacement and Water Service Lines Project No. 16181; complete all of the recommended repairs to the Industrial Park elevated storage tank per the September 6, 2019 inspection report, and submit a final report from the contractor verifying the completed work; and, pay a **stipulated penalty** in the amount of eight thousand dollars (**\$8,000.00**) should any requirement of the Order not be met.

Water Pollution Enforcement

73) Order Type and Number: Consent Order 19-062-W
Order Date: October 1, 2019
Individual/Entity: Town of Calhoun Falls
Facility: Calhoun Falls WWTF
Location: 125 Walnut Street
Abbeville County, SC
Mailing Address: P.O. Box 246
Calhoun Falls, SC 29628
County: Abbeville
Previous Orders: 17-008-W (\$2,800.00);
19-015-W (\$9,800.00)
Permit/ID Number: NPDES Permit SC0025721
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 Calhoun Falls (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Abbeville County, South Carolina. On June 21, 2018, a Notice of Violation was issued as a result of violations of the permitted discharge limits for chronic effluent toxicity (CTOX) as reported on the discharge monitoring reports submitted to the Department for the February 2018 through April 2018 quarterly monitoring period and violations were also reported of the permitted discharge limits for CTOX for the November 2018 through January 2019 quarterly monitoring period. 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 CTOX.

Action: The Individual/Entity is required to: submit to the Department a Corrective Action Plan (CAP) addressing compliance with the permitted discharge limits for CTOX, monitor for CTOX for one year after final implementation of the CAP; perform a Toxicity Identification Evaluation/Toxicity Reduction Evaluation if there is a CTOX failure observed during the one year monitoring period following the implementation of the CAP; submit quarterly reports on progress toward attainment of compliance; pay a civil penalty in the amount of two hundred eighty dollars

(\$280.00); and pay a suspended penalty in the amount of two thousand five hundred and twenty dollars (\$2,520.00) should any requirement of the Order not be met.

74) Order Type and Number: Consent Order 19-063-W
Order Date: October 3, 2019
Individual/Entity: **Lowcountry Regional Water System**
Facility: Town of Hampton WWTF
Location: 501 Saluda Street
Hampton, SC 29924
Mailing Address: P.O. Box 647
Hampton, SC 29924-3516
County: Hampton
Previous Orders: None
Permit/ID Number: NPDES Permit SC0021318
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: Lowcountry Regional Water System (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Hampton County, South Carolina. On March 15, 2019, a Notice of Violation was issued as a result of violations of the permitted discharge limits for ammonia-nitrogen (ammonia) and cadmium 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 ammonia and cadmium.

Action: The Individual/Entity is required to: complete a six (6) month monitoring period without violation to confirm a return to compliance; submit a corrective action plan in the event of a failed effluent limitation during the six (6) month monitoring period; pay a civil penalty in the amount of two thousand one hundred dollars (**\$2,100.00**); and pay a stipulated penalty in the amount of two thousand one hundred dollars (\$2,100.00) should any requirement of the Order not be met.

75) Order Type and Number: Consent Order 19-064-W
Order Date: October 3, 2019
Individual/Entity: **SK Builders**
Facility: Cliffabee Leas Subdivision
Location: Located off Walhalla Highway
Seneca, SC 29672
Mailing Address: P.O. Box 561
Greer, SC 29652
County: Oconee County
Previous Orders: None
Permit/ID Number: NPDES Permit N/A
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. 61-9.122.26 (a) (2011).

Summary: SK Builders (Individual/Entity) owns and is responsible for land disturbing activity associated with construction located in Oconee County, South Carolina. On March 11, 2019,

a Notice of Noncompliance was issued as a result an inspection of the site. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to apply and obtain required permits from the Department prior to initiating land disturbing activity.

Action: The Individual/Entity is required to: submit all construction permit applications required by the Department for lots under construction; and, pay a civil penalty in the amount of four thousand dollars **(\$7,125.00)**.

BUREAU OF AIR QUALITY

76) Order Type and Number: Administrative Order 19-022-A
Order Date: October 14, 2019
Individual/Entity: **Mr. Robert J. Coe**
Facility: N/A
Location: 6 R Street
Anderson, SC 29625
Mailing Address: Same
County: Anderson
Previous Orders: N/A
Permit/ID Number: N/A
Violations Cited: 5 S.C. Code Ann. Regs. 61-62.2, Prohibition of
Open Burning

Summary: Mr. Robert J. Coe (Individual/Entity), is the owner of the property located in Anderson, South Carolina. The Department conducted an open burning investigation on May 1, 2018, in response to a complaint. The Individual/Entity has violated South Carolina Air Pollution Control Regulations in that he burned materials 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 to the Department a civil penalty in the amount of seven hundred dollars **(\$700.00)**.

77) Order Type and Number: Consent Order 19-024-A
Order Date: October 17, 2019
Individual/Entity: **Palmer's Quality Construction, Inc.**
Facility: Palmer's Quality Construction
Location: 901 B Long Point Road
Mount Pleasant, SC 29464
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: 5 S.C. Code Ann. Regs. 61-62.2 Prohibition of
Open Burning

Summary: Palmer's Quality Construction, Inc. (Individual/Entity), is the owner of the property located at 901 B Long Point Road in Mount Pleasant, South Carolina. The Department

conducted open burning investigations on July 18, 2018, and August 10, 2018, in response to complaints. The Individual/Entity has violated South Carolina Air Pollution Control Regulations in that it burned materials other than those specifically allowed by Section I of the regulation, specifically land-clearing debris less than 1,000 feet from public roadways and residential sites.

Action: The Individual/Entity is required to: cease all open burning except in accordance with the Open Burning Regulation; and pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)**.

BUREAU OF ENVIRONMENTAL HEALTH SERVICES

Food Safety Enforcement

78) Order Type and Number: Administrative Order 2019-206-06-043
 Order Date: October 1, 2019
 Individual/Entity: **Joseph Stocco, d.b.a. Ole Shillelagh Sports Bar**
 Facility: Joseph Stocco, d.b.a. Ole Shillelagh Sports Bar
 Location: 405 South Kings Highway
 Myrtle Beach, SC 29577
 Mailing Address: Same
 County: Horry
 Previous Orders: 2016-206-06-012 (\$1,000.00)
 Permit Number: 26-206-12519
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Ole Shillelagh Sports Bar (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 18, 2019, March 28, 2019, and April 1, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

Action: The Individual/Entity is required to: operate and maintain the facility 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)**.

79) Order Type and Number: Consent Order 2019-206-01-050
 Order Date: October 1, 2019
 Individual/Entity: **TD's of Clemson**
 Facility: TD's of Clemson
 Location: 339 College Avenue
 Clemson, SC 29631
 Mailing Address: Same
 County: Pickens
 Previous Orders: None
 Permit Number: 39-206-00639
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: TD's of Clemson (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted inspections on September 5, 2017, July 12, 2018, June 25, 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; 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 four hundred dollars **(\$400.00)**.

80)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-053
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Lowery Food Mart #5
	<u>Facility:</u>	Lowery Food Mart #5
	<u>Location:</u>	1698 Wells Highway Seneca, SC 29678
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Oconee
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	37-206-01058
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Lowery Food Mart #5 (Individual/Entity) is a restaurant located in Oconee, South Carolina. The Department conducted inspections on November 7, 2017, September 6, 2018, and July 30, 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)**.

81)	<u>Order Type and Number:</u>	Consent Order 2019-206-01-058
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	O'Charley's #246
	<u>Facility:</u>	O'Charley's #246
	<u>Location:</u>	3723 Clemson Boulevard Anderson, SC 29621
	<u>Mailing Address:</u>	3028 Sidco Drive Nashville, TN 37204
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	2015-206-01-040 (\$800.00); 2016-206-01-037 (\$1,000.00); 2018-206-01-025 (\$3,500.00)
	<u>Permit Number:</u>	04-206-02393

Violations Cited:

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

Summary: O'Charley's #246 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 4, 2018, June 14, 2018, and May 13, 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 and failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

82) Order Type and Number: Consent Order 2019-206-01-060
Order Date: October 1, 2019
Individual/Entity: **O'Charley's #295**
Facility: O'Charley's #295
Location: 452 Bypass 72 NW
Greenwood, SC 29649
Mailing Address: 3028 Sidco Drive
Nashville, TN 37204
County: Greenwood
Previous Orders: None
Permit Number: 24-206-01462
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: O'Charley's #295 (Individual/Entity) is a restaurant located in Greenwood, South Carolina. The Department conducted inspections on June 19, 2018, June 18, 2019, and June 27, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

83) Order Type and Number: Consent Order 2019-206-02-063
Order Date: October 1, 2019
Individual/Entity: **Purple International Bistro and Sushi**
Facility: Purple International Bistro and Sushi
Location: 933 South Main Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: 2016-206-02-041 (\$800.00);
2018-206-02-001 (\$1,000.00);
2018-206-02-062 (\$800.00)
Permit Number: 23-206-11185
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Purple International Bistro and Sushi (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on June 20, 2019, and June

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 two thousand dollars **(\$2,000.00)**.

84)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-071
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Denny's Restaurant #2054
	<u>Facility:</u>	Denny's Restaurant #2054
	<u>Location:</u>	2521 Wade Hampton Boulevard Greenville, SC 29615
	<u>Mailing Address:</u>	203 East Main Street Spartanburg, SC 29319
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	23-206-11692
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Denny's Restaurant #2054 (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on August 2, 2019, August 8, 2019, and August 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

85)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-074
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Liberty West End
	<u>Facility:</u>	Liberty West End
	<u>Location:</u>	941 South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	1177 Southgate Drive Charleston, SC 29407
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	2016-206-02-049 (\$800.00); 2017-206-02-020 (\$1,500.00); 2018-206-02-025 (\$1,000.00); 2019-206-02-010 (\$1,000.00)
	<u>Permit Number:</u>	23-206-09279
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Liberty West End (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on August 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 one thousand dollars **(\$1,000.00)**.

86)	<u>Order Type and Number:</u>	Consent Order 2019-206-02-076
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	Greenville Drive Stadium #4 (500 Club)
	<u>Facility:</u>	Greenville Drive Stadium #4 (500 Club)
	<u>Location:</u>	945 South Main Street Greenville, SC 29601
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Greenville
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	23-206-08936
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Greenville Drive Stadium #4 (500 Club) (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on January 22, 2018, November 2, 2018, and July 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks.

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

87)	<u>Order Type and Number:</u>	Consent Order 2019-206-03-074
	<u>Order Date:</u>	October 1, 2019
	<u>Individual/Entity:</u>	JJ Tea House
	<u>Facility:</u>	JJ Tea House
	<u>Location:</u>	601 Main Street, Unit D Columbia, SC 29201
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Richland
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	40-206-08012
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: JJ Tea House (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on August 30, 2017, August 29, 2018, and August 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 eight hundred dollars **(\$800.00)**.

88) Order Type and Number: Consent Order 2019-206-03-087
 Order Date: October 1, 2019
 Individual/Entity: **Buffalo Creek Bar & Grill**
 Facility: Buffalo Creek Bar & Grill
 Location: 750 Marina Way
 Prosperity, SC 29127

 Mailing Address: Same
 County: Lexington
 Previous Orders: 2018-206-03-092 (\$800.00)
 Permit Number: 32-206-01301
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Buffalo Creek Bar & Grill (Individual/Entity) is a restaurant located in Prosperity, South Carolina. The Department conducted inspections on June 30, 2017, June 8, 2018, June 7, 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.

Action: The Individual/Entity is required to: operate and maintain the facility 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)**.

89) Order Type and Number: Consent Order 2019-206-03-088
 Order Date: October 1, 2019
 Individual/Entity: **Wings & Ale**
 Facility: Wings & Ale
 Location: 154 Ellis Avenue
 Lexington, SC 29072

 Mailing Address: Same
 County: Lexington
 Previous Orders: None
 Permit Number: 32-206-06151
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Wings & Ale (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on July 28, 2017, July 25, 2018, August 3, 2018, and July 19, 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 four hundred dollars **(\$400.00)**.

90) Order Type and Number: Consent Order 2019-206-03-090
Order Date: October 1, 2019
Individual/Entity: **Mills-Jarrett Building Canteen**
Facility: Mills-Jarrett Building Canteen
Location: 1751 Calhoun Street
Columbia, SC 29201
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-01919
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Mills-Jarrett Building Canteen (Individual/Entity) is a canteen located in Columbia, South Carolina. The Department conducted inspections on November 14, 2016, November 14, 2017, September 10, 2018, January 3, 2019, March 19, 2019, and May 29, 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**).

91) Order Type and Number: Consent Order 2019-206-03-093
Order Date: October 1, 2019
Individual/Entity: **No. 1 China 2**
Facility: No. 1 China 2
Location: 5214 Highway 321
Gaston, SC 29053
Mailing Address: Same
County: Lexington
Previous Orders: 2014-206-03-048 (\$500.00);
2019-206-03-035 (\$800.00)
Permit Number: 32-206-05811
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: No. 1 China 2 (Individual/Entity) is a restaurant located in Gaston, South Carolina. The Department conducted an inspection on August 20, 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 and failed to store foods in a manner to prevent cross contamination.

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

92) Order Type and Number: Consent Order 2019-206-03-095
Order Date: October 1, 2019
Individual/Entity: **Quick Stop Exxon**
Facility: Quick Stop Exxon
Location: 9102 Farrow Road
Columbia, SC 29203
Mailing Address: Same
County: Richland
Previous Orders: 2019-206-03-081 (\$1,400.00)
Permit Number: 40-206-08572
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Quick Stop Exxon (Individual/Entity) is a convenience store located in Columbia, South Carolina. The Department conducted an inspection on August 23, 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**).

93) Order Type and Number: Consent Order 2019-206-05-021
Order Date: October 1, 2019
Individual/Entity: **Hot Wok**
Facility: Hot Wok
Location: 2390 Chestnut Street, Suite A7
Orangeburg, SC 29115
Mailing Address: Same
County: Orangeburg
Previous Orders: None
Permit Number: 38-206-02759
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hot Wok (Individual/Entity) is a restaurant located in Orangeburg, South Carolina. The Department conducted inspections on March 25, 2019, April 4, 2019, and August 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to properly cool cooked time/temperature control for safety foods; and failed to 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**).

94) Order Type and Number: Consent Order 2019-206-06-060
Order Date: October 1, 2019
Individual/Entity: **Marco Polo**
Facility: Marco Polo
Location: 513 North Ocean Boulevard
Myrtle Beach, SC 29577

Mailing Address: Same
County: Horry
Previous Orders: 2018-206-06-127 (\$2,600.00)
Permit Number: 26-206-13571
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Marco Polo (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on July 26, 2018, September 5, 2018, and April 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 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 properly thaw time/temperature control for safety foods; 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; failed to ensure that equipment is maintained in a state of repair and condition that meets the regulation requirements; and failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of one thousand, five hundred dollars **(\$1,500.00)**.

95) Order Type and Number: Consent Order 2019-206-06-084
Order Date: October 1, 2019
Individual/Entity: **Flip Flops Bar and Grill**
Facility: Flip Flops Bar and Grill
Location: 9618 Shore Drive
Myrtle Beach, SC 29572
Mailing Address: 504 30th Avenue North #16
Myrtle Beach, SC 29577
County: Horry
Previous Orders: None
Permit Number: 26-206-11154
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Flip Flops Bar and Grill (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on April 20, 2018, November 16, 2018, and May 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

96) Order Type and Number: Consent Order 2019-206-06-099
Order Date: October 1, 2019
Individual/Entity: **NY Style Pizzeria**
Facility: NY Style Pizzeria
Location: 706 North Ocean Boulevard

Mailing Address: Myrtle Beach, SC 29577
P.O. Box 3034
Myrtle Beach, SC 29577
County: Horry
Previous Orders: 2019-206-06-066 (\$800.00)
Permit Number: 26-206-12078
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: NY Style Pizzeria (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on 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 and failed to ensure written procedures were in place and made available to the Department when the facility uses time as a public health control.

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

97) Order Type and Number: Consent Order 2019-206-07-041
Order Date: October 1, 2019
Individual/Entity: **Belgian Gelato**
Facility: Belgian Gelato
Location: 6 Vendue Range
Charleston, SC 29401
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-07879
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Belgian Gelato (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on February 6, 2018, February 5, 2019, February 15, 2019, February 28, 2019, and April 30, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for Food Protection.

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

98) Order Type and Number: Consent Order 2019-206-07-046
Order Date: October 1, 2019
Individual/Entity: **RB's Seafood Restaurant**
Facility: RB's Seafood Restaurant
Location: 97 Church Street
Mount Pleasant, SC 29464
Mailing Address: Same
County: Charleston
Previous Orders: 2015-206-07-078 (\$800.00);

Permit Number: 2017-206-07-010 (\$800.00);
2018-206-07-027 (\$2,000.00)
Violations Cited: 10-206-04737
S.C. Code Ann. Regs. 61-25

Summary: RB's Seafood Restaurant (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on May 23, 2017, May 22, 2018, June 4, 2018, and April 29, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods; failed to properly cool cooked time/temperature control for safety foods; failed to properly thaw 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, two hundred fifty dollars **(\$1,250.00)**.

99) Order Type and Number: Consent Order 2019-206-07-082
Order Date: October 1, 2019
Individual/Entity: **RB's Seafood Restaurant**
Facility: RB's Seafood Restaurant
Location: 97 Church Street
Mount Pleasant, SC 29464
Mailing Address: Same
County: Charleston
Previous Orders: 2015-206-07-078 (\$800.00);
2017-206-07-010 (\$800.00);
2018-206-07-027 (\$2,000.00);
2019-206-07-046 (\$1,250.00)
Permit Number: 10-206-04737
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: RB's Seafood Restaurant (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on May 22, 2018, April 29, 2019, 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; failed to maintain the premises free of insects, rodents, and other pests; failed to properly thaw 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 three thousand, seven hundred fifty dollars **(\$3,750.00)**.

100) Order Type and Number: Consent Order 2019-206-01-044
Order Date: October 2, 2019
Individual/Entity: **Kentucky Fried Chicken #007**
Facility: Kentucky Fried Chicken #007
Location: 653 Highway 28 Bypass
Anderson, SC 29624
Mailing Address: 904 Montague Avenue

County: Greenwood, SC 29649
Previous Orders: Anderson
Permit Number: None
Violations Cited: 04-206-02686
S.C. Code Ann. Regs. 61-25

Summary: Kentucky Fried Chicken #007 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on February 14, 2017, January 4, 2018, November 29, 2018, December 5, 2018, May 9, 2019, and May 15, 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 eight hundred dollars (**\$800.00**).

101) Order Type and Number: Consent Order 2019-206-01-056
Order Date: October 2, 2019
Individual/Entity: **Kentucky Fried Chicken**
Facility: Kentucky Fried Chicken
Location: 2701 North Main Street
Anderson, SC 29621
Mailing Address: 880 S. Pleasantburg Drive, Suite 4C
Spartanburg, SC 29606
County: Anderson
Previous Orders: None
Permit Number: 04-206-03258
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Kentucky Fried Chicken (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on September 25, 2017, August 14, 2018, and July 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.

Action: The Individual/Entity is required to: operate and maintain the facility 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**).

102) Order Type and Number: Consent Order 2019-206-02-050
Order Date: October 3, 2019
Individual/Entity: **Another Broken Egg Cafe**
Facility: Another Broken Egg Cafe
Location: 1025 Woodruff Road, Suite G-103
Greenville, SC 29607
Mailing Address: Same
County: Greenville

Previous Orders: None
Permit Number: 23-206-11100
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Another Broken Egg Cafe (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on June 12, 2018, May 29, 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)**.

103) Order Type and Number: Consent Order 2019-206-02-068
Order Date: October 3, 2019
Individual/Entity: **Hong Kong Restaurant**
Facility: Hong Kong Restaurant
Location: 7704-J Augusta Road
Piedmont, SC 29673
Mailing Address: Same
County: Greenville
Previous Orders: 2017-206-02-002 (\$2,200.00)
Permit Number: 23-206-11185
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hong Kong Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on July 3, 2018, July 2, 2019, and July 10, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods; failed to use effective methods to cool cooked time/temperature control for safety foods; 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 protect food from contamination by storing in a clean, dry location where it is not exposed to splash, dust, or other contamination at least 6 inches above the floor.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of three thousand, seven hundred fifty dollars **(\$3,750.00)**.

104) Order Type and Number: Consent Order 2019-206-02-073
Order Date: October 3, 2019
Individual/Entity: **Compadres MexMex Grill**
Facility: Compadres MexMex Grill
Location: 2541 South Pleasantburg Drive
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-09997

Violations Cited:

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 August 9, 2018, August 6, 2019, August 14, 2019, and August 23, 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)**.

105) Order Type and Number: Consent Order 2019-206-05-017
Order Date: October 3, 2019
Individual/Entity: **Ellore Truck Stop**
Facility: Ellore Truck Stop
Location: 6642 Old Highway #6
Ellore, SC 29047
Mailing Address: P.O. Box 512
Ellore, SC 29047
County: Orangeburg
Previous Orders: None
Permit Number: 38-206-02493
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Ellore Truck Stop (Individual/Entity) is a restaurant located in Ellore, South Carolina. The Department conducted inspections on June 20, 2018, August 20, 2018, September 4, 2018, July 3, 2019, 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 one thousand, two hundred dollars **(\$1,200.00)**.

106) Order Type and Number: Consent Order 2019-206-06-090
Order Date: October 3, 2019
Individual/Entity: **Nathan's Famous-Scoops Ice Cream**
Facility: Nathan's Famous- Scoops Ice Cream
Location: 1401 South Kings Highway
Myrtle Beach, SC 29575
Mailing Address: 4407 Camellia Drive
Myrtle Beach, SC 29577
County: Horry
Previous Orders: None
Permit Number: 26-206-11821
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Nathan's Famous-Scoops Ice Cream (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 27, 2018, November 2, 2018, and June 10, 2019. The Individual/Entity has violated the South Carolina Retail

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

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

107) Order Type and Number: Consent Order 2019-206-07-055
Order Date: October 7, 2019
Individual/Entity: **Edith Smith D/B/A Amy's Kitchen**
Facility: Amy's Kitchen
Location: 100-B Central Avenue
Goose Creek, SC 29445
Mailing Address: P.O. Box 612
Goose Creek, SC 29445
County: Berkeley
Previous Orders: None
Permit Number: 08-206-06919
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Amy's Kitchen (Individual/Entity) is a restaurant located in Goose Creek, South Carolina. The Department conducted inspections on March 1, 2018, February 5, 2019, February 15, 2019, February 26, 2019, March 8, 2019, and March 19, 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, obtain and provide documentation of its designated employee's completion of the certified food protection manager certification program; and pay a civil penalty in the amount of eight hundred dollars (**\$800.00**).

108) Order Type and Number: Consent Order 2019-206-01-042
Order Date: October 8, 2019
Individual/Entity: **El Arriero**
Facility: El Arriero
Location: 4355 Highway 24
Anderson, SC 29626
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-03470
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Arriero (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on November 20, 2017, August 13, 2018, and May 29, 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.

Action: The Individual/Entity is required to: operate and maintain the facility 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**).

109) Order Type and Number: Consent Order 2019-206-02-077
Order Date: October 8, 2019
Individual/Entity: **Panera Bread #1161**
Facility: Panera Bread #1161
Location: 1922 Augusta Road
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-09209
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Panera Bread #1161 (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on May 21, 2018, February 12, 2019, and August 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the handwashing sinks were accessible at all times.

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

110) Order Type and Number: Consent Order 2019-206-03-078
Order Date: October 8, 2019
Individual/Entity: **Firehouse Subs**
Facility: Firehouse Subs
Location: 7467 Saint Andrews Road
Irmo, SC 29063
Mailing Address: P.O. Box 50645
Columbia, SC 29250
County: Lexington
Previous Orders: 2018-206-03-108 (\$1,475.00)
Permit Number: 32-206-06513
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Firehouse Subs (Individual/Entity) is a restaurant located in Irmo, South Carolina. The Department conducted an inspection on July 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 dollars (**\$1,000.00**).

111) Order Type and Number: Consent Order 2019-204-07-001
Order Date: October 9, 2019
Individual/Entity: **Maine Line Lobster**
Facility: Maine Line Lobster
Location: 1883 Andell Bluff Road
Johns Island, SC 29455
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-204-10972
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Maine Line Lobster (Individual/Entity) is a mobile food unit located in Johns Island, South Carolina. The Department conducted inspections on November 29, 2017, June 22, 2018, and June 4, 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 two hundred dollars (**\$200.00**).

112) Order Type and Number: Consent Order 2019-206-01-061
Order Date: October 9, 2019
Individual/Entity: **Theo's**
Facility: Theo's
Location: 302-1 South Main Street
Abbeville, SC 29620
Mailing Address: Same
County: Abbeville
Previous Orders: None
Permit Number: 01-206-00877
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Theo's (Individual/Entity) is a restaurant located in Abbeville, South Carolina. The Department conducted inspections on July 17, 2019, July 26, 2019, and August 1, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

113) Order Type and Number: Consent Order 2019-206-02-046
Order Date: October 9, 2019
Individual/Entity: **Cantinflas Mexican Restaurant**
Facility: Cantinflas Mexican Restaurant
Location: 10 South Main Street
Greenville, SC 29601

Mailing Address: Same
County: Greenville
Previous Orders: 2016-206-02-030 (\$400.00);
2018-206-02-047 (\$1,000.00);
2019-206-02-028 (\$2,750.00)
Permit Number: 23-206-07370
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Cantinflas Mexican Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on June 18, 2019, June 27, 2019, and July 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; and failed to ensure the grade decal posted by the Department 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; obtain and provide documentation of its designated staff members completion of an accredited Food Handler Certification program; pay a civil penalty in the amount of two thousand, five hundred dollars (**\$2,500.00**); and pay a suspended penalty in the amount of five hundred dollars (\$500.00) should any requirement of the Order not be met.

114) Order Type and Number: Consent Order 2019-206-06-104
Order Date: October 9, 2019
Individual/Entity: **New Dragon Chinese**
Facility: New Dragon Chinese
Location: 104 West Broad Street
Hemingway, SC 29554
Mailing Address: P.O. Box 1445
Hemingway, SC 29554
County: Williamsburg
Previous Orders: None
Permit Number: 45-206-00290
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: New Dragon Chinese (Individual/Entity) is a restaurant located in Hemingway, South Carolina. The Department conducted inspections on May 29, 2018, October 30, 2018, 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 eight hundred dollars (**\$800.00**).

115) Order Type and Number: Consent Order 2019-206-07-069
Order Date: October 9, 2019
Individual/Entity: **D. D. Peckers Wing Shack**
Facility: D. D. Peckers Wing Shack
Location: 1660 Savannah Highway

Mailing Address: Charleston, SC 29407
County: Same
Previous Orders: Charleston
Permit Number: None
Violations Cited: 10-206-05589
S.C. Code Ann. Regs. 61-25

Summary: D. D. Peckers Wing Shack (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on July 13, 2017, May 30, 2018, May 24, 2019, and June 3, 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)**.

116) Order Type and Number: Consent Order 2019-206-01-049
Order Date: October 14, 2019
Individual/Entity: **Sardi's Den**
Facility: Sardi's Den
Location: 520-2 Old Greenville Highway
Clemson, SC 29631
Mailing Address: Same
County: Pickens
Previous Orders: None
Permit Number: 39-206-00909
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Sardi's Den (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted inspections on September 21, 2017, July 17, 2018, July 27, 2018, July 11, 2019, and July 19, 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 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 six hundred dollars **(\$600.00)**.

117) Order Type and Number: Consent Order 2019-206-04-018
Order Date: October 14, 2019
Individual/Entity: **Savmart**
Facility: Savmart
Location: 2518 Highway 9 West
Dillon, SC 29536
Mailing Address: P.O. Box 486
Little Rock, SC 29567
County: Dillon
Previous Orders: None

Permit Number: 17-206-00575
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Savmart (Individual/Entity) is a convenience store located in Dillon, South Carolina. The Department conducted inspections on April 19, 2018, March 27, 2019, and April 4, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide a temperature measuring device required for the immersion into 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**).

118) Order Type and Number: Consent Order 2019-206-04-047
Order Date: October 14, 2019
Individual/Entity: **Quincy's Steak House**
Facility: Quincy's Steak House
Location: 1924 West Lucas Street
Florence, SC 29501
Mailing Address: Same
County: Florence
Previous Orders: None
Permit Number: 21-206-01609
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Quincy's Steak House (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on July 11, 2017, May 11, 2018, May 18, 2018, August 27, 2018, and July 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 two thousand, four hundred dollars (**\$2,400.00**).

119) Order Type and Number: Consent Order 2019-206-04-050
Order Date: October 14, 2019
Individual/Entity: **Magnolia on Main**
Facility: Magnolia on Main
Location: 226 East Main Street
Bennettsville, SC 29515
Mailing Address: Same
County: Marlboro
Previous Orders: None
Permit Number: 34-206-00666
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Magnolia on Main (Individual/Entity) is a restaurant located in Bennettsville, South Carolina. The Department conducted inspections on November 13, 2018, November 19, 2018, and July 23, 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)**.

120) <u>Order Type and Number:</u>	Consent Order 2019-206-05-024
<u>Order Date:</u>	October 14, 2019
<u>Individual/Entity:</u>	Ruby Tuesday #4396
<u>Facility:</u>	Ruby Tuesday #4396
<u>Location:</u>	1183 Knox Avenue North Augusta, SC 29841
<u>Mailing Address:</u>	P.O. Box 781199 Wichita, KS 67278
<u>County:</u>	Aiken
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	02-206-01915
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Ruby Tuesday #4396 (Individual/Entity) is a restaurant located in North Augusta, South Carolina. The Department conducted inspections on August 8, 2019, August 14, 2019, and August 22, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the temperature of the fresh hot water sanitizing rinse as it enters the manifold, may not be more than 194 degrees in a mechanical operation, less than 165 degrees for a stationary rack, single temperature machine, or less than 180 degrees for all other machines.

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

121) <u>Order Type and Number:</u>	Consent Order 2019-206-06-112
<u>Order Date:</u>	October 14, 2019
<u>Individual/Entity:</u>	Burger King #1215
<u>Facility:</u>	Burger King #1215
<u>Location:</u>	501 South Kings Highway Myrtle Beach, SC 29577
<u>Mailing Address:</u>	P.O. Box 7971 Madison, WI 53713
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	26-206-11560
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Burger King #1215 (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on May 15, 2019, June 26, 2019, July 3, 2019, and July 22, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide water at a temperature of at least 100°F through a mixing valve or combination faucet at the handwashing sink(s).

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

122) Order Type and Number: Consent Order 2019-206-07-088
Order Date: October 14, 2019
Individual/Entity: **Freddo**
Facility: Freddo
Location: 239 ½ King Street
Charleston, SC 29401
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-09296
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Freddo (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on July 11, 2018, July 18, 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)**.

123) Order Type and Number: Consent Order 2019-206-08-003
Order Date: October 14, 2019
Individual/Entity: **El Super Internacional**
Facility: El Super Internacional
Location: 71 Pope Avenue
Hilton Head Island, SC 29928
Mailing Address: 21 Simmonsville Road
Bluffton, SC 29910
County: Beaufort
Previous Orders: None
Permit Number: 07-206-09234
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Super Internacional (Individual/Entity) is a restaurant located in Hilton Head Island, South Carolina. The Department conducted inspections on April 23, 2019, May 3, 2019, May 14, 2019, and May 24, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide a test kit or other device that accurately measures the concentration of MG/L of sanitizing solutions.

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

124) Order Type and Number: Consent Order 2019-206-08-005
Order Date: October 14, 2019
Individual/Entity: **Katie O'Donalds**
Facility: Katie O'Donalds
Location: 1008 Fording Island Road
Bluffton, SC 29910
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit Number: 07-206-04048
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Katie O'Donalds (Individual/Entity) is a restaurant located in Bluffton, South Carolina. The Department conducted inspections on September 21, 2017, September 10, 2018, and August 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)**.

125) Order Type and Number: Consent Order 2019-208-04-003
Order Date: October 14, 2019
Individual/Entity: **Turbeville Correctional Center**
Facility: Turbeville Correctional Center
Location: 1578 Clarence Coker Highway
Turbeville, SC 29162
Mailing Address: 4444 Broad River Road
Columbia, SC 29221
County: Clarendon
Previous Orders: None
Permit Number: 14-208-08013
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Turbeville Correctional Center (Individual/Entity) operates a cafeteria located in Turbeville, South Carolina. The Department conducted inspections on June 13, 2019, June 20, 2019, June 29, 2019, and July 8, 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)**.

126) Order Type and Number: Consent Order 2019-206-03-081
Order Date: October 16, 2019
Individual/Entity: **Quick Stop Exxon**
Facility: Quick Stop Exxon
Location: 9102 Farrow Road
Columbia, SC 29203

Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-08572
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Quick Stop Exxon (Individual/Entity) is a convenience store located in Columbia, South Carolina. The Department conducted inspections on April 30, 2019, June 25, 2019, July 2, 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; failed to clean non-food contact surfaces at a frequency to preclude accumulation of soil residues; failed to provide a covered receptacle for sanitary napkins in the toilet room used by females; failed to ensure that physical facilities were maintained in good repair; and failed to clean the physical facilities as often as necessary to keep them clean.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25, and pay a civil penalty in the amount of one thousand, four hundred dollars (**\$1,400.00**).

127) Order Type and Number: Consent Order 2019-206-01-055
Order Date: October 18, 2019
Individual/Entity: **El Jimador Veijo, LLC**
Facility: El Jimador Veijo, LLC
Location: 2114 Highway 81
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: 2018-206-01-035 (\$550.00)
Permit Number: 04-206-04183
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Jimador Veijo, LLC (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted an inspection on July 24, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

128) Order Type and Number: Consent Order 2019-206-01-059
Order Date: October 18, 2019
Individual/Entity: **Anderson Elks Lodge #1206**
Facility: Anderson Elks Lodge #1206
Location: 225 McGee Road
Anderson, SC 29625
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-02747
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Anderson Elks Lodge #1206 (Individual/Entity) operates a restaurant located in Anderson, South Carolina. The Department conducted inspections on November 28, 2017, October 30, 2018, and August 20, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure food contact surfaces and utensils were cleaned.

Action: The Individual/Entity is required to: operate and maintain the facility 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)**.

129) Order Type and Number: Consent Order 2019-206-01-063
Order Date: October 18, 2019
Individual/Entity: **Ingles #16 Deli Bakery**
Facility: Ingles #16 Deli Bakery
Location: 462 S. Main Street
Belton, SC 29627
Mailing Address: P.O. Box 6676
Asheville, NC 28816
County: Anderson
Previous Orders: 2016-206-01-035 (\$800.00)
Permit Number: 04-206-02411
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Ingles #16 Deli Bakery (Individual/Entity) is a deli/bakery located in Belton, South Carolina. The Department conducted inspections on January 23, 2018, February 2, 2018, January 14, 2019, and August 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 two thousand dollars **(\$2,000.00)**.

130) Order Type and Number: Consent Order 2019-206-02-059
Order Date: October 18, 2019
Individual/Entity: **Jimmy & Pete's Clock Restaurant**
Facility: Jimmy & Pete's Clock Restaurant
Location: 1803 Easley Bridge Road
Greenville, SC 29611
Mailing Address: 1249 South Pleasantburg Drive
Greenville, SC 29605
County: Greenville
Previous Orders: None
Permit Number: 23-206-04619
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jimmy & Pete's Clock Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on June 17, 2019, June 24, 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 eight hundred dollars **(\$800.00)**.

131) Order Type and Number: Consent Order 2019-206-02-070
Order Date: October 18, 2019
Individual/Entity: **Tokyo Japanese Restaurant**
Facility: Tokyo Japanese Restaurant
Location: 906 Tiger Boulevard
Clemson, SC 29631
Mailing Address: Same
County: Pickens
Previous Orders: None
Permit Number: 39-206-02009
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tokyo Japanese Restaurant (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted inspections on October 5, 2017, August 8, 2018, and July 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 eight hundred dollars **(\$800.00)**.

132) Order Type and Number: Consent Order 2019-206-03-080
Order Date: October 18, 2019
Individual/Entity: **San Jose Mexican Restaurant**
Facility: San Jose Mexican Restaurant
Location: 5303 Highway 321, Suites A & B
Gaston, SC 29053
Mailing Address: Same
County: Lexington
Previous Orders: 2018-206-03-144 (\$800.00)
Permit Number: 32-206-06615
Violations Cited: S.C. Code Ann. Regs. 61-25

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

133) Order Type and Number: Consent Order 2019-206-03-091
Order Date: October 18, 2019
Individual/Entity: **Taqueria Guadalajara**
Facility: Taqueria Guadalajara
Location: 1807 Decker Boulevard
Columbia, SC 29206
Mailing Address: 407 Libby Lane
Lexington, SC 29072
County: Richland
Previous Orders: 2017-206-03-030 (\$1,600.00);
2018-206-03-141 (\$2,000.00)
Permit Number: 40-206-07338
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Taqueria Guadalajara (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on August 9, 2019, and August 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 two thousand dollars **(\$2,000.00)**.

134) Order Type and Number: Consent Order 2019-206-03-101
Order Date: October 18, 2019
Individual/Entity: **Menkoi Ramen**
Facility: Menkoi Ramen
Location: 1004 Gervais Street
Columbia, SC 29201
Mailing Address: Same
County: Richland
Previous Orders: 2014-206-03-132 (\$500.00)
Permit Number: 40-206-06890
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Menkoi Ramen (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on November 1, 2017, September 24, 2018, and September 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 dollars **(\$1,000.00)**.

135) Order Type and Number: Consent Order 2019-206-06-110
Order Date: October 18, 2019
Individual/Entity: **Café Blue at Hotel Blue**
Facility: Café Blue at Hotel Blue
Location: 705 South Ocean Boulevard

Mailing Address: Myrtle Beach, SC 29577
County: Same
Previous Orders: Horry
Permit Number: None
Violations Cited: N/A
S.C. Code Ann. Regs. 61-25

Summary: Café Blue at Hotel Blue (Individual/Entity) is a hotel with a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on May 23, 2019, and July 25, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: providing food to the public without a valid permit issued by the Department.

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

136) Order Type and Number: Consent Order 2019-206-06-118
Order Date: October 18, 2019
Individual/Entity: **Bombay at the Beach**
Facility: Bombay at the Beach
Location: 702 North Kings Highway
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 2018-206-06-123 (\$200.00);
2018-206-06-159 (\$200.00);
2019-206-06-038 (\$1,000.00)
Permit Number: 26-206-13564
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bombay at the Beach (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on August 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

137) Order Type and Number: Consent Order 2019-206-06-120
Order Date: October 18, 2019
Individual/Entity: **Loco Gecko**
Facility: Loco Gecko
Location: 805 South Ocean Boulevard
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-12118
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Loco Gecko (Individual/Entity) operates a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on September 7, 2018, March 7, 2019, and August 12, 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 dollars (**\$200.00**).

138) Order Type and Number: Consent Order 2019-206-06-125
Order Date: October 18, 2019
Individual/Entity: **Wendy's #213**
Facility: Wendy's #213
Location: 2625 Dick Pond Road
Myrtle Beach, SC 29588
Mailing Address: 8040 Arrowridge Boulevard, Suite 100
Charlotte, NC 28273
County: Horry
Previous Orders: 2016-206-06-053 (\$800.00);
2018-206-06-115 (\$800.00);
2019-206-06-014 (\$1,000.00)
Permit Number: 26-206-07460
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Wendy's #213 (Individual/Entity), located in Myrtle Beach, South Carolina, is a restaurant. The Department conducted an inspection on July 24, 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; obtain and provide documentation of its designated staff members completion of an accredited Food Handler Certification program; and pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

139) Order Type and Number: Consent Order 2019-206-06-135
Order Date: October 18, 2019
Individual/Entity: **New China Buffet DBA Lucky Cho**
Facility: New China Buffet DBA Lucky Cho
Location: 1700 Highway 17 North
Surfside Beach, SC 29575
Mailing Address: Same
County: Horry
Previous Orders: 2016-206-06-089 (\$800.00);
2017-206-06-017 (\$1,200.00);
2018-206-06-052 (\$2,000.00);
2018-206-06-147 (\$1,500.00)
Permit Number: 26-206-13065

Violations Cited:

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

Summary: New China Buffet DBA Lucky Cho (Individual/Entity) is a restaurant located in Surfside Beach, South Carolina. The Department conducted inspections on December 20, 2018, May 23, 2019, and August 19, 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; obtain and provide documentation of its designated staff members completion of an accredited Food Handler Certification program; pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**); and pay a suspended penalty in the amount of two thousand dollars (\$2,000.00) should any requirement of the Order not be met.

140) Order Type and Number: Consent Order 2019-206-07-093
Order Date: October 18, 2019
Individual/Entity: **Earth Fare #200 Deli**
Facility: Earth Fare #200 Deli
Location: 74 Folly Road
Charleston, SC 29407
Mailing Address: 220 Continuum Drive
Fletcher, NC 28732
County: Charleston
Previous Orders: 2018-206-07-008 (\$1,600.00);
2019-206-07-016 (\$1,000.00)
Permit Number: 10-206-02693
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Earth Fare #200 Deli (Individual/Entity) is a deli located in Charleston, South Carolina. The Department conducted inspections on August 12, 2019, and August 13, 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**).

141) Order Type and Number: Consent Order 2019-206-07-094
Order Date: October 18, 2019
Individual/Entity: **Tommy Condons d.b.a. VB Hosp. Group**
Facility: Tommy Condons d.b.a. VB Hosp. Group
Location: 160 Church Street
Charleston, SC 29401
Mailing Address: Same
County: Charleston
Previous Orders: 2018-206-07-063 (\$800.00)
Permit Number: 10-206-10199
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tommy Condons d.b.a. VB Hosp. Group (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on September 6, 2017, August 29, 2018, and August 21, 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 one thousand dollars **(\$1,000.00)**.

142) Order Type and Number: Consent Order 2019-206-07-100
Order Date: October 18, 2019
Individual/Entity: **Old Towne Restaurant**
Facility: Old Towne Restaurant
Location: 229 King Street
Charleston, SC 29401
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-00466
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Old Towne Restaurant (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on June 3, 2017, June 7, 2019, and July 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 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)**.

143) Order Type and Number: Consent Order 2019-206-07-107
Order Date: October 18, 2019
Individual/Entity: **McDonald's #10431**
Facility: McDonald's #10431
Location: 3710 Rivers Avenue
North Charleston, SC 29406
Mailing Address: 8584 Rivers Avenue, Suite 103
North Charleston, SC 29406
County: Charleston
Previous Orders: None
Permit Number: 10-206-07131
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: McDonald's #10431 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on December 18, 2018, June 24, 2019, August 14, 2019, and August 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; failed to ensure written procedures were in place and made available to the Department when the facility uses time as a public health control; and failed to maintain the premises free of insects, rodents, and other pests.

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

144)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-117
	<u>Order Date:</u>	October 21, 2019
	<u>Individual/Entity:</u>	La Trattoria
	<u>Facility:</u>	La Trattoria
	<u>Location:</u>	3100 Highway 17 South Murrells Inlet, SC 29576
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-13637
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: La Trattoria (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted inspections on April 24, 2018, January 14, 2019, and August 13, 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)**.

145)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-136
	<u>Order Date:</u>	October 21, 2019
	<u>Individual/Entity:</u>	Denny's
	<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>	2019-206-06-103 (\$3,200.00)
	<u>Permit Number:</u>	26-206-13752
	<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 August 1, 2019, and August 2, 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 two thousand, seven hundred fifty dollars **(\$2,750.00)**.

146) Order Type and Number: Consent Order 2019-206-07-098
Order Date: October 21, 2019
Individual/Entity: **O'Charley's #397**
Facility: O'Charley's #397
Location: 2150 Northwoods Boulevard, Building 200
North Charleston, SC 29406
Mailing Address: 3030 Sidco Drive
Nashville, TN 37204
County: Charleston
Previous Orders: None
Permit Number: 10-206-05026
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: O'Charley's #397 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on June 26, 2019, August 8, 2019, and August 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)**.

147) Order Type and Number: Consent Order 2019-206-08-007
Order Date: October 21, 2019
Individual/Entity: **World of Beer**
Facility: World of Beer
Location: 30 Shelter Cove Lane
Hilton Head Island, SC 29968
Mailing Address: 10910 Sheldon Road
Tampa, FL 33626
County: Beaufort
Previous Orders: None
Permit Number: 07-206-10130
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: World of Beer (Individual/Entity) is a restaurant located in Hilton Head Island, South Carolina. The Department conducted inspections on October 15, 2018, August 22, 2019, and August 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 eight hundred dollars **(\$800.00)**.

148) Order Type and Number: Consent Order 2019-206-08-008
Order Date: October 21, 2019
Individual/Entity: **Buffalo's**
Facility: Buffalo's
Location: 11 Village Park Square
Bluffton, SC 29910
Mailing Address: 476 Mount Pelia Road
Bluffton, SC 29910
County: Beaufort
Previous Orders: None
Permit Number: 07-206-09520
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Buffalo's (Individual/Entity) is a restaurant located in Bluffton, South Carolina. The Department conducted inspections on October 9, 2018, October 24, 2018, and August 20, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

149) Order Type and Number: Consent Order 2019-206-04-046
Order Date: October 22, 2019
Individual/Entity: **Sub Depot**
Facility: Sub Depot
Location: 117 Highway 15- 401 Bypass East
Bennettsville, SC 29512
Mailing Address: P.O. Box 508
Laurinburg, NC 28353
County: Florence
Previous Orders: None
Permit Number: 34-206-00567
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Sub Depot (Individual/Entity) is a restaurant located in Bennettsville, South Carolina. The Department conducted inspections on August 31, 2018, March 27, 2019, June 28, 2019, and July 8, 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, six hundred dollars **(\$1,600.00)**.

150) Order Type and Number: Consent Order 2019-206-06-121
Order Date: October 22, 2019
Individual/Entity: **Cici's Pizza**
Facility: Cici's Pizza
Location: 3533 Northgate Road
Myrtle Beach, SC 29577
Mailing Address: 430 Ramsey Street, Suite 106
Fayetteville, NC 28302
County: Horry
Previous Orders: 2017-206-06-128 (\$800.00);
2018-206-06-061 (\$1,250.00);
2019-206-06-010 (\$500.00)
Permit Number: 26-206-10030
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Cici's Pizza (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on August 9, 2019, August 19, 2019, and August 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 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, five hundred dollars **(\$1,500.00)**.

151) Order Type and Number: Consent Order 2019-206-01-066
Order Date: October 23, 2019
Individual/Entity: **Denny's #7906**
Facility: Denny's #7906
Location: 3501 Clemson Boulevard
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-03555
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Denny's #7906 (Individual/Entity) operates a restaurant located in Anderson, South Carolina. The Department conducted inspections on April 26, 2018, August 30, 2018, and August 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)**.

152) Order Type and Number: Consent Order 2019-206-02-065
Order Date: October 23, 2019
Individual/Entity: **Menkoi Udon & Soba House**
Facility: Menkoi Udon & Soba House
Location: 241-B North Main Street
Greenville, SC 29601
Mailing Address: 801 East Springs Road
Columbia, SC 29223
County: Greenville
Previous Orders: 2019-206-02-011
Permit Number: 23-206-11594
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Menkoi Udon & Soba House (Individual/Entity) operates a restaurant located in Greenville, South Carolina. The Department conducted an inspection on July 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.

Action: The Individual/Entity is required to: operate and maintain the facility 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 2019-206-02-072
Order Date: October 23, 2019
Individual/Entity: **Tanners**
Facility: Tanners
Location: 322 South Pleasantburg Drive
Greenville, SC 29607
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-02170
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tanners (Individual/Entity) operates a restaurant located in Greenville, South Carolina. The Department conducted inspections on May 28, 2019, June 7, 2019, and July 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 eight hundred dollars **(\$800.00)**.

154) Order Type and Number: Consent Order 2019-206-02-075
Order Date: October 23, 2019
Individual/Entity: **Greenville Drive Stadium Main**
Facility: Greenville Drive Stadium Main
Location: 945 South Main Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-08932
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Greenville Drive Stadium Main (Individual/Entity) operates a restaurant located in Greenville, South Carolina. The Department conducted inspections on January 22, 2018, November 2, 2018, November 8, 2018, and July 11, 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 one thousand, six hundred dollars **(\$1,600.00)**.

155) Order Type and Number: Consent Order 2019-206-03-092
Order Date: October 23, 2019
Individual/Entity: **Taste of China Hut**
Facility: Taste of China Hut
Location: 2233 Decker Boulevard
Columbia, SC 29206
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-07854
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Taste of China Hut (Individual/Entity) operates a restaurant located in Columbia, South Carolina. The Department conducted inspections on August 17, 2017, August 17, 2018, August 6, 2019, and August 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 one thousand, six hundred dollars **(\$1,600.00)**.

156) Order Type and Number: Consent Order 2019-206-08-004
Order Date: October 23, 2019
Individual/Entity: **Captain Woody's Bar & Grill**
Facility: Captain Woody's Bar & Grill
Location: 17 State of Mind Street
Bluffton, SC 29910

Mailing Address: P.O. Box 2551
Bluffton, SC 29910
County: Beaufort
Previous Orders: None
Permit Number: 07-206-09168
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Captain Woody's Bar & Grill (Individual/Entity) is a restaurant located in Bluffton, South Carolina. The Department conducted inspections on March 25, 2019, July 25, 2019, and July 31, 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 dollars (**\$200.00**).

157) Order Type and Number: Consent Order 2019-206-01-071
Order Date: October 24, 2019
Individual/Entity: **Waffle House #2243**
Facility: Waffle House #2243
Location: 7505 Highway 76
Pendleton, SC 29670
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Anderson
Previous Orders: 2018-206-02-049
Permit Number: 04-206-04370
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #2243 (Individual/Entity) operates a restaurant located in Anderson, South Carolina. The Department conducted an inspection on September 16, 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) Order Type and Number: Consent Order 2019-206-03-102
Order Date: October 24, 2019
Individual/Entity: **Pearlz**
Facility: Pearlz
Location: 936 Gervais Street
Columbia, SC 29201
Mailing Address: 1177 Southgate Drive
Charleston, SC 29458
County: Richland
Previous Orders: None
Permit Number: 40-206-06489

Violations Cited:

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

Summary: Pearlz (Individual/Entity) operates a restaurant located in Columbia, South Carolina. The Department conducted inspections on June 25, 2018, September 20, 2018, and September 10, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

159) Order Type and Number: Consent Order 2019-206-07-115
Order Date: October 24, 2019
Individual/Entity: **82 Queen Street**
Facility: 82 Queen Street
Location: 82 Queen Street
Charleston, SC 29401
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-08206
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: 82 Queen Street (Individual/Entity) operates a restaurant located in Charleston, South Carolina. The Department conducted inspections on November 28, 2017, September 26, 2018, September 11, 2019, and September 19, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

160) Order Type and Number: Consent Order 2019-206-01-041
Order Date: October 31, 2019
Individual/Entity: **Anderson Quick Stop**
Facility: Anderson Quick Stop
Location: 1701 Pearman Dairy Road
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-04382
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Anderson Quick Stop (Individual/Entity) is a convenience store located in Anderson, South Carolina. The Department conducted an inspection on June 26, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: providing food to the public without a valid permit issued by the Department.

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

Onsite Wastewater Enforcement

161) Order Type and Number: Administrative Order 19-44-OSWW
Order Date: October 1, 2019
Individual/Entity: **Linda H. Bolding**
Facility: Linda H. Bolding
Location: 453 Police Club Road
Union, SC 29379
Mailing Address: Same
County: Union
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Linda H. Bolding (Individual/Entity) owns property located in Union, South Carolina. The Department conducted an investigation on August 14, 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.

162) Order Type and Number: Administrative Order 19-46-OSWW
Order Date: October 9, 2019
Individual/Entity: **Bertha V. Chapman**
Facility: Bertha V. Chapman
Location: 125 Gardner Road
Spartanburg, SC 29307
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Bertha V. Chapman (Individual/Entity) owns property located in Spartanburg, South Carolina. The Department conducted an investigation on August 22, 2019, and observed domestic wastewater discharging onto the surface of the ground from multiple pipes connected to the barn located on the Site. 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 and 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 immediately vacate the barn to eliminate the flow of domestic wastewater and ensure the barn remains vacated until all plumbing fixtures are connected to a Department approved 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.

163) <u>Order Type and Number:</u>	Administrative Order 19-47-OSWW
<u>Order Date:</u>	October 9, 2019
<u>Individual/Entity:</u>	Paulette Loudermilk
<u>Facility:</u>	Paulette Loudermilk
<u>Location:</u>	262 Crenshaw Road Cowpens, SC 29330
<u>Mailing Address:</u>	Same
<u>County:</u>	Cherokee
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Paulette Loudermilk (Individual/Entity) owns property located in Cowpens, South Carolina. The Department conducted an investigation on August 30, 2019, and observed domestic wastewater discharging onto the surface of the ground and running from the Site onto an adjacent property. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent, 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.

164) <u>Order Type and Number:</u>	Administrative Order 19-48-OSWW
<u>Order Date:</u>	October 14, 2019
<u>Individual/Entity:</u>	James C. Dabbs Willie Dean Dabbs Olin Keith Dabbs
<u>Facility:</u>	James C. Dabbs Willie Dean Dabbs Olin Keith Dabbs
<u>Location:</u>	324 South 5 th Street Lockhart, SC 29364
<u>Mailing Address:</u>	P.O. Box 277 Lockhart, SC 29364
<u>County:</u>	Union
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: James C. Dabbs, Willie Dean Dabbs, and Olin Keith Dabbs (Individuals/Entities) own property located in Union, South Carolina. The Department conducted an investigation on August 21, 2019 and observed a camper on the property not connected to an approved means of domestic wastewater disposal. 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 Individuals/Entities are required to either within fifteen days connect the camper at the Site to the public sewer system and submit to the Department confirmation from the public sewer provider that the Site is connected to the public sewer system; or immediately vacate the camper at the Site and ensure it remains vacated until the Department has confirmed that the camper is connected to public sewer; and pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

165) <u>Order Type and Number:</u>	Consent Order 19-45-OSWW
<u>Order Date:</u>	October 4, 2019
<u>Individual/Entity:</u>	Roy Leon Wylde
<u>Facility:</u>	Roy Leon Wylde
<u>Location:</u>	132 Wild Turkey Lane Pacolet, SC 29372
<u>Mailing Address:</u>	Same
<u>County:</u>	Union
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Roy Leon Wylde (Individual/Entity) owns property located in Pacolet, South Carolina. The Department conducted an investigation on August 14, 2019 and observed an unapproved OSWW system being installed and in use. 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 immediately vacate the residence and ensure it remains vacated until a proper OSWW system is installed and approved by the Department in accordance with all requirements of R. 61-56 and the September 4, 2019, Permit to Construct; 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.

Date: December 12, 2019

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

From: Bureau of Water

Re: Public Hearing for Notice of Final Regulation Amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, Document No. 4886

I. Introduction

The Bureau of Water (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*. Legal authority resides in S.C. Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 *et seq.*, which authorizes the South Carolina Department of Health and Environmental Control (“Department”) to promulgate applicable regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

II. Facts

1. The Bureau proposes amending R.61-43 to incorporate Act 139 of 2018, which amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes. Since the above referenced statutory provisions added and removed requirements currently contained in the R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, the regulations should be amended to reflect these changes.
2. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*.
3. The Bureau held two stakeholder meetings on March 28, 2019. Bureau personnel considered stakeholders comments and suggestions regarding the proposed changes to the regulation.
4. Appropriate Department staff conducted an internal review of the proposed amendments on April 2, 2019.
5. The Department had a Notice of Proposed Regulation published in the August 23, 2019, *State Register*. The Bureau held two additional stakeholders meeting on September 19, 2019, during the Notice of Proposed Regulation public comment period. Overall, the Department received public comments from six people by the September 23, 2019, close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.

III. Request for Approval

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, for submission to the General Assembly.



Dr. Michael Marcus
Chief, Bureau of Water



Myra Reece
Director of Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

ATTACHMENT A

**STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.61-43, STANDARDS FOR THE PERMITTING OF AGRICULTURAL ANIMAL
FACILITIES**

December 12, 2019

Document No. 4886

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.

61-43. Standards for the Permitting of Agricultural Animal Facilities.

Synopsis:

The Department of Health and Environmental Control (“Department”) amends R.61-43, Standards for the Permitting of Agricultural Animal Facilities, to incorporate Act 139 of 2018, which amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes.

The Department also makes amendments to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The Department published a Notice of Drafting in the February 22, 2019, *South Carolina State Register*.

Instructions: Replace R.61-43, Standards for the Permitting of Agricultural Animal Facilities, in its entirety with this amendment.

~~Indicates Matter Stricken~~

Indicates New Matter

Text:

61-43. Standards for the Permitting of Agricultural Animal Facilities.

(Statutory Authority: 1976 Code Sections ~~48-1-30, 47-20-40, 47-20-60, and 47-20-160 et seq.~~44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.)

Table of Contents

Part 50 General Definitions

Part 100 Swine Facilities

- 100.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of the Regulation.
- 100.20. Permits and Compliance Period.
- 100.30. Exclusions.
- 100.40. Relationship to Other Regulations.
- 100.50. Permit Application Requirements (Animal Facility Management Plan Submission Requirements).
- 100.60. Public Notice Requirements.
- 100.70. Permit Decision Making Process.
- 100.80. Swine Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements.
- 100.90. General Requirements for Swine Manure Lagoons, Treatment Systems, and Swine Manure Storage Ponds.
- 100.100. Manure Utilization Area Requirements.
- 100.110. Spray Application System Requirements.
- 100.120. Frequency of Monitoring for Swine Manure.
- 100.130. Dead Swine Disposal Requirements.
- 100.140. Other Requirements.
- 100.150. Odor Control Requirements.
- 100.160. Vector Control Requirements.
- 100.170. Record Keeping.
- 100.180. Reporting.
- 100.190. Training Requirements.
- 100.200. Violations.

Part 200 Animal Facilities (other than swine)

- 200.10. Purpose, Applicability, Inactive Facilities and Facilities Permitted Prior to the Effective Date of Regulation.
- 200.20. Permits and Compliance Period.
- 200.30. Exclusions.
- 200.40. Relationship to Other Regulations.
- 200.50. Permit Application Requirements (Animal Facility Management Plan Submission Requirements).
- 200.60. Public Notice Requirements.
- 200.70. Permit Decision Making Process.
- 200.80. Animal Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements.
- 200.90. General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds.
- 200.100. Manure Utilization Area Requirements.
- 200.110. Spray Application System Requirements.
- 200.120. Frequency of Monitoring for Animal Manure.
- 200.130. Dead Animal Disposal Requirements.
- 200.140. Other Requirements.
- 200.150. Odor Control Requirements.
- 200.160. Vector Control Requirements.
- 200.170. Record Keeping.
- 200.180. Reporting.
- 200.190. Training Requirements.
- 200.200. Violations.

Part 300 Innovative and Alternative Technologies

- 300.10. General.
- 300.20. Submittal Requirements.

- 300.30. Requirements in Lieu of Requirements Under Part 100 and Part 200 of This Regulation.
- 300.40. Innovative and Alternative Treatment Technologies.
- 300.50. Exceptional Quality Compost.
- 300.60. Public Notice Requirements.
- Part 400 Manure Broker/Land Applier Operations:
 - 400.10. Purpose and Applicability.
 - 400.20. Permits and Compliance Period.
 - 400.30. Relationship to Other Regulations.
 - 400.40. Permit Application Procedures (Broker Management Plan Submission Requirements).
 - 400.50. Permit Decision Making Process.
 - 400.60. Manure Utilization Area Requirements.
 - 400.70. Other Requirements.
 - 400.80. Odor Control Requirements.
 - 400.90. Vector Control Requirements.
 - 400.100. Record Keeping.
 - 400.110. Reporting.
 - 400.120. Training Requirements.
 - 400.130. Violations.
- Part 500 Integrator Registration Program.
 - 500.10. General.
 - 500.20. Submittal Requirements.
 - 500.30. Certificate of Integrator Registration.
 - 500.40. Reporting.
 - 500.50. Other Requirements.
 - 500.60. Violations.
- Part 600 Severability

Part 50. General Definitions.

For purposes of this regulation, the following definitions apply:

“Active Animal Facility” means a facility with a minimum of 30,000 pounds normal production animal live weight and in production.

“Affected Person” means a property owner with standing within a one (1)-mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities.

~~A:~~“Agricultural animal” means an animal confined in an agricultural facility.

~~B:~~“Agricultural facility” means a lot, building, or structure, which is used for the commercial production of animals in an animal facility.

~~C:~~“Agronomic rate” ~~is~~means the animal manure and other animal by-products application rate designed: (1) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land ~~and~~; (2) to minimize the amount of nitrogen in the animal manure that passes below the root zone of the crop or vegetation grown on the land to ~~the groundwater and~~; (3) to provide the amount of other organic and inorganic plant nutrients which promote crop or vegetative growth, such as

calcium-carbonate equivalency; and (4) to provide the amount of phosphorus needed by the crop or vegetation grown on the land without causing an excessive buildup of phosphorus in the soil.

~~D.~~ “Animal” means any domesticated animal.

~~E.~~ “Animal by-product” means a secondary or incidental product of animal production that may include bedding, spilled feed, water or soil, milking center washwater, contaminated milk, hair, feathers, dead animals or other debris. This definition may also refer to dead animal or animal manure compost.

~~F.~~ “Animal facility” means an agricultural facility where animals are confined and fed or maintained for a total of forty-five (45) days or more in a twelve (12)-month period and crops, vegetative, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of animal manure and other animal by-products from animals in the operation also are part of the animal facility. Two (2) or more animal facilities under common ownership or management are considered to be a single animal facility if they are adjacent or utilize a common system for animal manure storage.

~~G.~~ “Animal Facility Management Plan” means a plan prepared by the United States Department of Agriculture’s Natural Resources Conservation Service (USDA-NRCS) or a professional engineer detailing the management, handling, treatment, storage, or utilization of manure generated in an animal facility. This plan shall include facility management details and a detailed map of each manure utilization area showing all buffer zones and setbacks, a description of the land use, the crops grown on the site, the timing for application of swine manure to the land and a land use agreement if the site is not owned by the permittee.

“Animal Feeding Operation” means a lot or facility where animals have been, are, or will be stabled or confined and fed for a total of forty-five (45) days or more in any twelve (12)-month period.

~~H.~~ “Animal manure” means animal excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

~~I.~~ “Annual animal manure application rate” is the maximum amount of animal manure that can be agronomically applied to a unit area of land during any 365-day period.

~~J.~~ “Annual constituent loading rate” means the maximum amount of a constituent that can be applied to a unit area of a manure utilization area during any 365-day period.

“Application rate” means the amount of manure applied at any one time based on agronomic rates.

“Approval to Operate (ATO)” means a letter from the Department granting approval to place the facility into operation.

~~K.~~ “Average animal live weight” means the sum of the average exit weight of the animal from the facility and the average entry weight divided by two, as shown by the following formula:

$$\text{Average animal live weight} = (\text{Average Exit Weight} + \text{Average Entry Weight})/2$$

~~L.~~ “Broker” means a person who accepts or purchases ~~any~~ animal manure or other animal by-products from agricultural facilities producers and transfers this product to a third party for land application.

“Certification of Construction” means a document certified by the consultant, PE or NRCS staff that a certain construction project has been completed in accordance with the terms, conditions, and specifications contained in the permit of applicable regulations.

~~M~~：“Closed facility” means an animal facility that has ceased operations (no confined animals at the facility) and is no longer in production, and all lagoons and waste storage ponds have been properly closed out and cannot be placed back into operation without a new permit.

~~N~~：“Commercial Facility” means an animal facility that produces animals or animal by-products for commercial sale, boards animals, rents animals, or provides a service utilizing the animals for a fee.~~The facility is considered commercial if the owner earned at least one thousand dollars gross farm income in at least three of the first five years.~~

~~O~~：“Compost” ~~is~~means an organic soil conditioner that has been stabilized to a humus-like product, is free of viable human and plant pathogens and plant seeds, does not attract insects or vectors, can be handled and stored ~~without nuisance~~in compliance with the regulations, and is beneficial to the growth of plants.

~~P~~：“Composting” ~~is~~means the biological decomposition and stabilization of organic substrates, under conditions that allow development of thermophilic temperatures as a result of biologically produced heat, to produce a final product that is stable, free of pathogens and plant seeds, and can be beneficially applied to land. Composting requires special conditions of moisture and aeration to produce thermophilic temperatures.

“Concentrated Animal Feeding Operation (CAFO)” means as defined by the Environmental Protection Agency (EPA).

“Confined Animal Manure Management (Camm) Certification” means an operator, manager, owner, of an animal facility or manure utilization area, has taken and received certification from passing a class that is provided by Clemson University, Clemson Extension, the South Carolina Department of Health and Environmental Control, and the USDA Natural Resource Conservation Service.

~~Q~~：“Constituent limit” ~~is~~means a numerical value that describes the amount of a constituent allowed per unit amount of animal manure (e. g., milligrams per kilogram of total solids); the amount of a constituent that can be applied to a unit area of land (e. g., pounds per acre); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

~~R~~：“Cover crop” ~~is~~means a small grain crop, including, but not limited to, oats, wheat, or barley; grasses; or other crop grown for agronomic use or to maintain topsoil and prevent soil erosion.

“Critical Habitat” means the term used to define those areas of habitat containing physical and biological features that are essential for an endangered or threatened species to recover and that require special management or protection as defined by the U.S. Endangered Species Act or the South Carolina Department of Natural Resources.

~~S~~：“Cumulative constituent loading rate” means the maximum amount of a constituent that can be applied to an area of land.

~~T~~：“Cumulative impacts” means an increase or enlarging of impact to the environment or community by the successive addition or accumulation of animal facilities in an area.

Ⓜ: “CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA shall be according to Pub. L. 92-500 notation.

Ⓝ: “Deemed Permitted Facility” means an agricultural animal facility that held a valid permit from the Department for their swine facility prior to July 1, 1996, or for their animal facility prior to June 26, 1998.

Ⓞ: “Department” means the South Carolina Department of Health and Environmental Control.

“Discharge” means any release, air emission or dismissal of sewage, industrial waste, agriculture waste, or other waste into any waters of the State, whether treated or not.

“Downwind Receptors” refers to virtual three-dimensional coordinates placed off site where the concentrations of emissions would be measured for comparison to air quality standards.

Ⓟ: “Dry manure” means manure, bedding, litter, feed losses, or composted animal material (animal manure or dead animals) that is not in a liquid form. Dry animal manure can normally be easily handled with a shovel or other similar equipment and it can be placed in piles without liquid manure or leachate drainage occurring.

Ⓠ: “Dry weight basis” means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100 percent solids content).

Ⓡ: “EPA” means the United States Environmental Protection Agency.

“Evergreen Buffer” means flora that have foliage remaining green and functional through at least more than one growing season and are not considered deciduous.

Ⓢ: “Ephemeral stream” means a stream that flows only in direct response to rainfall or snowmelt in which discrete periods of flow persist no more than twenty-nine (29) consecutive days per event.

Ⓣ: “Excessive Mortality” means total animal mortality in any one twenty-four (24)-hour period that exceeds the design capacity of the normal method of dead animal disposal. This may include utilizing the barns to compost the excessive mortality.

Ⓤ: “Expansion” means an increase in the permitted number of animals or normal production animal live weight at the facility or that will result in physical construction at the facility. ~~For facilities with a lagoon, treatment system or manure storage pond, expansion means an increase due to construction in the maximum capacity of the existing lagoon, treatment system or manure storage pond as determined using the appropriate design standards of the United States Department of Agriculture’s Natural Resource Conservation Service.~~ An animal manure treatment lagoon that is converted to animal manure storage pond is considered an expansion of the facility. For facilities permitted prior to 1998, where the treatment/storage design function was not clearly specified, the Department shall review the facility’s operation records and compliance history to determine the current function and condition of the manure handling structures. If the existing structure can handle additional animals, without physical alteration, significant changes in the original function of the structure, or any significant increase in odor, the Department may allow this increase in animals without classifying the change as an expansion.

“Feedlot” means an animal feeding operation (AFO) which is used in intensive animal farming for finishing livestock.

~~DD~~: “FEMA” means the Federal Emergency Management Agency.

~~EE~~: “Feed crops” ~~are~~ means crops produced primarily for consumption by animals. These include, but are not limited to: corn, grains, and grasses.

~~FF~~: “Fiber crops” ~~are~~ means crops including, but not limited to, flax and cotton.

~~GG~~: “Floodplain” means land adjacent to water bodies that periodically becomes temporarily inundated with water during or after rainfall events. The land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years is the 100-year floodplain. The 100-year flood has a ~~1%~~ one (1) percent probability of occurring in one given year.

~~HH~~: “Food crops” ~~are~~ means crops produced primarily for human consumption. These include, but are not limited to, fruits, vegetables, and tobacco.

“Footprint” means the area of ground covered by an agricultural facility, i.e., the part of the property that the animal facility is constructed on.

“Freeboard” means additional capacity in a storage/treatment structure, designed to provide a safety margin of storage in the event that a rainfall occurs when the structure is full. The design storm is normally a twenty-five (25)-year storm of twenty-four (24) hours duration.

~~II~~: “Groundwater” ~~is~~ means water below the land surface in the saturated zone.

“Inactive Facility” means an animal facility that is not considered in production, but the facility and/or lagoon(s)/waste pond(s) have not been properly closed out. The owner/operator/permittee will continue to pay the annual fees throughout the inactive period of the permit and is required to maintain the facility and/or lagoon(s)/waste storage pond(s) and will be inspected by the Department on a routine basis.

~~JJ~~: “Integrator” or “Integrating company” means any entity or person(s) who contracts with agricultural animal producers to grow animals to be supplied to this person(s) at the time of removal from the animal growing houses or facilities and exercises substantial operational control over an animal facility along with the owner/operator of the facility. Substantial operational control includes, but is not limited to, the following: directs the activities of persons working at the animal facility either through a contract, direct supervision, or on-site participation; owns the animals; or specifies how the animals are grown, fed, or medicated. This definition does not include independent producers that contract with other independent producers to accomplish a portion of the animal growing process under contract.

~~KK~~: “Intermittent stream” means a stream that generally has a defined natural watercourse, which does not flow year-round but flows beyond periods of rainfall or snowmelt.

~~LL~~: “Lagoon” means an impoundment used in conjunction with an animal facility, the primary function of which is to store or stabilize, or both, manure, organic wastes, wastewater, and contaminated runoff.

~~MM~~: “Land application” ~~is~~ means the spraying or spreading of manure or other animal by-products onto the land surface; the injection of manure below the land surface into the root zone; or the incorporation of manure into the soil so that the manure can either condition the soil or fertilize crops or vegetation grown in the soil.

“Land Applier” means any person who accepts or purchases manure or other animal by-products from producers for use as a fertilizer or soil enhancer on land either owned, leased, or managed by the land applier.

~~NN~~: “Large Animal Facility” means an animal facility (excluding swine facilities) that has a capacity for more than 500,000 pounds and less than 1,000,000 pounds of normal production animal live weight at any one time.

~~OO~~: “Large Swine Facility” means a swine facility with a capacity for greater than 500,000 pounds and less than 1,000,000 pounds of normal production animal live weight at any one time.

~~PP~~: “Liquid manure” means manure that by its nature, or after being diluted with water, can be pumped easily and which is removed either intermittently or continuously from an animal lagoon, manure storage pond or treated effluent from other types of animal manure treatment systems.

~~QQ~~: “Manure” means the fecal and urinary excretion of livestock and poultry. This material may also contain bedding, spilled feed, water or soil. It may also include wastes not associated with livestock excreta, such as milking center washwater, contaminated milk, hair, feathers, or other debris. Manure may be described in different categories as related to solids and moisture content, such as dry manure and liquid manure.

“Manure Application Rate” means managing manure at a rate of tons per acre to optimize its beneficial returns while minimizing its potential environmental impact by land applying at agronomic rates.

~~RR~~: “Manure storage pond” means a structure used for impounding or storing manure, wastewater, and contaminated runoff as a component of an agricultural manure management system. Manure is stored for a specified period of time, one (1) year or not less than ninety (90) days, and then the pond is emptied. This definition does not include tanks or other similar vessels.

~~SS~~: “Manure utilization area” means land on which animal manure (including swine manure) is spread as a fertilizer and is synonymous with land application site or land application area.

“Mass Burial Site” means a part of a plot of land approved by the Department designated to handle excessive mortality.

~~TT~~: “mg/l” means milligrams per liter.

~~UU~~: “NRCS” is means the Natural Resources Conservation Service of the United States Department of Agriculture.

~~VV~~: “NRCS-CPS” is means the Natural Resources Conservation Service’s Conservation Practice Standards as given in the USDA-NRCS, SC Handbook of Conservation Practices.

~~WW~~: “Normal production animal live weight at any one time” means the maximum number of animals at the facility at any one time multiplied by the average animal live weight of those animals.

“Notice of Intent (NOI)” means a document provided by the Department used by an applicant to notify the surrounding property owners of the applicant’s intent to construct a permitted animal facility.

~~XX~~: “Nuisance” means a condition causing danger or annoyance to a limited number of persons or to the general public.

“Outstanding Recreational or Ecological Resource Waters (ORW)” means waters which are of exceptional recreational, ecological importance, or of unusual value. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources; or waters used for or having significant value for scientific research and study.

“Operator” means the person(s) that manages a permitted animal facility or may be CAMM certified.

“Owner” means the owner or operator of any facility of activity subject to regulations under R.61-43.

~~YY~~:“Pasture” ismeans land on which animals feed directly on feed crops including, but not limited to, legumes, grasses, grain stubble, or stover.

“Permit” means any license, certificate, registration, variance, or other approval issued by or required by the Department or any of its divisions, pursuant to any statute or regulation.

“Permit Extension” means a one (1)-year extension with justification that must be applied for in writing ten (10) days prior to the permit expiration date.

“Permit Modification” means a minor or moderate change to a facility’s permit that is considered, as determined by the Department, to not change the general operations of the permitted site but are necessary to continue the regulated operation of the facility. Permit Modifications are not required to be Public Noticed.

“Permittee” means any person authorized to conduct any activity or business pursuant to a valid permit issued by or filed with the Department.

“Permitting Decision” means any decision by the Department to issue, modify, deny, or withdraw the permit.

~~ZZ~~:“Person” means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, co-partnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

“Plant Available Nitrogen (PAN)” means the quantity of Nitrogen made available during the growing season after fertilizing materials are applied. A certain amount of the Nitrogen is immobilized, and the remaining Nitrogen is available to the plant.

~~AAA~~:“Potable water well” means any well designed and/or constructed to produce potable water for consumption by humans or animals.

~~BBB~~:“Producer” ismeans a person who grows or confines animals; a person responsible for the manure produced at an animal facility; a person processing manure; and/or a person responsible for the land application of manure.

“Production” means a facility that meets the permit requirements based on 30,000 pounds of Normal Production Animal Live Weight.

~~CCC~~: “Professional Engineer” or “Engineer” is means a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, all as attested by his legal registration as a professional engineer in ~~this State~~ South Carolina.

“Public Hearing” means a proceeding, properly noticed in accordance with applicable state and federal laws, during which comments are received and testimony is taken to establish a record of concern prior to an administrative action by the Department.

“Public Notice” means the notice of an application or of proposed agency action published in accordance with applicable statutes and regulations.

~~DDD~~: “Range land” is means open land with indigenous vegetation.

“Ranged Animal Facility” means the size of the range area is sufficient to allow for the natural degradation or utilization of the manure with no adverse impact to the environment. Ranged facilities shall also maintain adequate vegetative buffers between the animal range and the adjacent property lines and/or waters of the State to prevent runoff from reaching adjacent property and/or waters of the State.

“Replacement in Kind” means construction of the same size or less of animal growing barn(s), and the same number or less of animal live weight, at the same location as the barn(s) being replaced.

~~EEE~~: “Residence” means a permanent inhabited dwelling, any existing church, school, hospital, or any other structure which is routinely occupied by the same person or persons more than twelve (12) hours per day or by the same person or persons under the age of eighteen (18) for more than two (2) hours per day, except those owned by the applicant.

“Rolling Average” means the laboratory results from the most recent analysis averaged with the previous manure analysis for a particular form of manure annually. The rolling average analysis sequence should be started over after any major modification or changes to the lagoon/waste storage pond.

“Routinely” means a regular course of procedure.

~~FFF~~: “Runoff” is means rainwater or other liquid that drains overland on any part of a land surface and runs off of the land surface.

~~GGG~~: “Seasonal High Water Table” is means the surface between the zone of saturation and the zone of aeration, where the pore water pressure is equal to atmospheric pressure, and which exhibits the shallowest average water depth in relation to the surface during the wettest season.

~~HHH~~: “Small Animal Facility” means an animal facility (other than swine) that has a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

~~HH~~: “Small Swine Facility” means a swine facility with a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

~~HH~~: “Source Water Protection Area” means an area either above and/or below ground that is the source of water for a public drinking water system via a surface water intake or a water supply well that is designated by the State for increased protection.

“South Carolina National Heritage Corridor” means a National Heritage Area, federally designated in 1996, spanning seventeen (17) counties and 320 miles across South Carolina, and committed to promoting and preserving the cultural, natural, and historic resources of South Carolina.

~~KKK~~: “State” means ~~the State~~ of South Carolina.

“Surface Water Runoff” means the flow of water that occurs when excess stormwater, meltwater, or other sources flows over the Earth’s surface.

~~LLL~~: “Swine” means a domesticated animal belonging to the porcine species.

~~MMM~~: “Swine by-product” means a secondary or incidental product of swine production that may include bedding, spilled feed, water or soil, ~~milking center washwater, contaminated milk hair, feathers,~~ dead swine or other debris. This definition may also refer to dead swine or swine manure compost.

~~NNN~~: “Swine facility” means an agricultural facility where swine are confined and fed or maintained for a total of forty-five (45) days or more in a twelve (12)-month period and crops, vegetative, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of swine manure from swine in the operation are also ~~are~~ part of the swine facility. Two or more swine facilities under common ownership or management are considered ~~to be~~ a single swine facility if they are adjacent or utilize a common system for swine manure treatment and/or storage. For any new or expanding swine facility, the combined normal production of all swine facilities owned by the producer, and of all swine facilities owned by corporations having a common majority shareholder in common with the producer, within twenty-five (25) miles of the new or expanding facility shall be used to determine the normal production of the new or expanding facility. For example, when a new facility has a proposed capacity of 300,000 pounds of normal production and the producer owns two other swine facilities within twenty-five (25) miles of the new or expanding swine facility and the normal production of each facility is 400,000 pounds, the proposed swine facility’s normal production is 1,100,000 (300,000 + 400,000 + 400,000) pounds.

~~OOO~~: “Swine manure” means swine excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

~~PPP~~: “µg/l” means ~~microgram per liter.~~

~~QQQ~~: “Vector” means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

“Waiver” means a document recording the deferral of a right, claim, or privilege.

“Waste Storage Pond” means an earthen waste impoundment that temporarily stores organic wastes such as manure and wastewater.

~~RRR~~: “Wastewater” means any water which during the confinement of animals or the handling, storage, or treatment of manure, dead animals, and litter, ~~ete.~~ comes into contact with the animals, manure, litter, spilled feed, ~~ete.~~ Wastewater includes, but is not limited to, wash waters, contaminated milk, and storm water (except storm water runoff from land application areas where the application of manure has been properly applied) that comes into contact with manure.

~~SSS~~: “Watershed” means a drainage area contributing to a river, lake, or stream.

~~FFF~~“Waters of the State” means lakes, bays, sounds, ponds, impounding reservoirs, springs, artesian wells, rivers, perennial and navigable streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. This definition does not include ephemeral or intermittent streams. This definition includes wetlands as defined in this section.

~~UUU~~“Wetlands” means lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands shall be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and hydrophytic vegetation. All three criteria shall be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.

“X-Large Animal Facility” means an animal facility (excluding swine) with 1,000,000 pounds or more of normal production animal live weight at any one time.

“X-Large Swine Facility” means a swine facility with 1,000,000 pounds or more of normal production animal live weight at any one time.

PART 100 SWINE FACILITIES

100.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of Regulation.

A. Purpose.

1. To establish standards for the growing or confining of swine, processing of swine manure and other swine by-products, and land application of swine manure and other swine by-products in such a manner as to protect the environment, and the health and welfare of citizens of the State from pollutants generated by this process.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the utilization of swine manure and other swine by-products generated at swine facilities. Standards included in this part are for swine manure and other swine by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for producers who operate swine facilities.

4. To establish standards for the proper operation and maintenance of swine facilities.

5. To establish criteria for swine facilities and manure utilization areas location as they relate to protection of the environment and public health ~~and welfare as outlined by statute~~. The location of swine facilities and manure utilization areas as they relate to zoning in an area is not covered in this regulation. Local county or municipal governments may have zoning requirements and these regulations neither interfere with nor restrict such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

B. Applicability.

1. This part applies to:

- a. All new swine facilities;
- b. All expansions of existing swine facilities;~~and~~
- c. New manure utilization areas for existing swine facilities;
- d. All inactive facilities; and
- e. All facilities and lagoon closures.

2. This part applies to all swine manure and other swine by-products applied to the land.

3. This part applies to all land where swine manure and other swine by-products are applied.

C. Inactive Facilities.

1. If a swine facility is ~~closed~~inactive for two (2) years or less, a producer may resume operations of the facility under the same conditions by which it was previously permitted by notifying the Department in writing that the facility is being operated again.

2. For swine facilities that have been ~~closed~~inactive for more than two (2) years but less than five (5) years, the Department shall review the existing permit and modify its operating conditions as necessary prior to the facility being placed back into operation.

3. For swine facilities that have been ~~closed~~inactive for more than five (5) years, the producer shall properly close out any lagoon, treatment system or manure storage pond associated with the facility. The closeout shall be accomplished in accordance with ~~Regulation R.61-82~~. The permittee shall submit a closeout plan that meets at a minimum NRCS-CPS within a time frame prescribed by the Department. Additional time may be granted by the Department to comply with the closeout requirement or to allow a producer to apply for a new permit under this regulation, as appropriate.

4. If a swine facility is ~~closed~~inactive for more than five (5) years, the ~~permit is considered expired and the producer shall apply for a new permit and all requirements under this part of R.61-43~~ shall be met before the facility can resume operations. During the closeout of the facilities and/or lagoons/waste storage ponds, annual fees are required to be paid until proper closeout is certified and approved.

D. Facilities Permitted Prior to the Effective Date of Regulation.

1. All existing swine facilities with permits issued by the Department before July 1, 1996, do not need to apply for a permit as they are deemed permitted (~~deemed permitted swine facilities~~) swine facilities unless they have been ~~closed~~ inactive for more than two (2) years or expand operations. These facilities shall meet the following sections of Part 100: Section 100.20 (Permits and Compliance Period); Section 100.90 items A, G, and N – T (General Requirements for Lagoons, Treatment Systems and Manure Storage Ponds); Section 100.100 items B.1.-~~2223~~. (Manure Utilization Area Requirements); Section 100.110.G.-J. (Spray Application System Requirement); Section 100.120 A,C, and D (Frequency of Monitoring for Swine Manure); Section 100.130 A,B, C item 2-3 (Dead Swine Disposal Requirements); Section 100.140 A, C-~~J~~

(Other Requirements); Section 100.150 B-~~GF~~ (Odor Control Requirements); Section 100.160 B-~~DC~~ (Vector Control Requirements); Section 100.170 (Record Keeping); Section 100.180 (Reporting); Section 100.190 A. - F.(Training Requirements); and Section 100.210 (Violations). The capacity of a deemed permitted facility is the maximum capacity of the existing lagoon, treatment system, or manure storage pond as determined using swine lagoon, treatment system, or manure storage pond capacity design standards of the United States Department of Agriculture's Natural Resource Conservation Service.

2. All existing swine facilities with permits issued by the Department between July 1, 1996, and the effective date of these regulations do not need to apply for a new permit if they hold a valid permit from the Department, unless they have been ~~closed~~ inactive for more than two (2) years. These facilities shall meet all the requirements of these regulations.

3. All existing swine facilities that were constructed and placed into operation prior to July 1, 1996, but have never received an agricultural permit from the Department, shall apply for a permit from the Department. These facilities shall meet all the requirements of this regulation as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

4. An existing facility may be required to submit for approval an updated Animal Facility Management Plan on a case-by-case basis by the Department. The Department shall notify the permittee in writing of this requirement. The permittee ~~shall submit this updated plan within a time frame prescribed by the Department~~ has six (6) months or an agreed upon time frame from the date of notification to submit an updated Animal Facility Management Plan. Failure to submit the updated plan within this time frame is a violation of the Pollution Control Act and these regulations, and may result in permit revocation.

5. Both the setbacks and other requirements for manure utilization areas shall be met when a new manure utilization area (MUA) is added by the owner of any swine facility regardless of when the facility was permitted.

6. If an existing facility regulated under Part 200 of these regulations proposes to convert to a swine facility, it shall be considered a new swine facility under these regulations. Converted facilities shall be permitted as new swine facilities and meet all criteria for new swine facilities before they begin operation as a swine facility.

7. If an existing swine facility proposes to expand operations or increase the number of permitted swine such that it falls into a new size classification, the facility shall be considered a new swine facility in that size classification under these regulations. The facility shall meet all the requirements for the new classification.

100.20. Permits and Compliance Period.

A. Permit Requirement. Swine manure and other swine by-products from a new or expanded swine facility can only be generated, handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department under the provisions of this part. Existing producers that are required by the Department to update their Animal Facility Management Plan shall meet the requirements of this part to the extent practical as determined by the Department.

~~B. Large Swine Facilities with 1,000,000 pounds or more normal production live weight must also apply for an individual National Pollutant Discharge Elimination System (NPDES) permit for Confined Animal Feeding Operations (CAFO) in accordance with the provisions of Regulation 61-9.~~

~~EB.~~ Permits issued under this regulation are no-discharge permits.

~~EC.~~ The requirements in this part shall be implemented through a permit issued to any producer who operates a swine facility where swine manure and other swine by-products are generated, handled, treated, stored, processed, or land applied.

~~ED.~~ The requirements under this part may be addressed in permits issued to producers who only land apply swine manure and other swine by-products.

~~EE.~~ Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, except as otherwise noted, prior to any change in operations at a permitted facility, including, but not limited to, the following:

1. Change in ownership and control of the facility. The Department has thirty (30) days from the receipt of a complete and accurate notification of transfer of ownership to either: request additional information regarding the transfer or the new owner; deny the transfer; or approve the transfer ~~of ownership~~. If the Department does not act within thirty (30) days, the transfer is automatically approved. If additional information is requested by the Department in a timely manner, the Department shall act on this additional information, when it is received, within the same time period as the initial notification.

2. Increase in the permitted number of swine.

3. Increase in the normal production animal live weight of the existing permitted swine facility.

4. Addition of manure utilization areas.

5. Change in swine manure and other swine by-products treatment, handling, storage, processing or utilization.

6. Change in method of dead swine disposal.

~~GF. Permit Modification.~~ Permit modifications for items 100.20.~~FE~~.3 and 100.20.~~FE~~.5 for facilities regulated under this part which shall result in expansions shall adhere to the requirements of this part and other applicable statutes, regulations, or guidelines.

~~HG.~~ Permit modification for items 100.20.~~FE~~.2-3 which result in an expansion may be required to obtain new written waivers or agreement for reduction of setbacks from adjoining property owners (if applicable).

100.30. Exclusions.

The following do not require permits from this part unless specifically required by the Department under Section 100.30.G.

A. Existing swine facilities that are deemed permitted under Section 100.10.D.1. are excluded from applying for a new permit unless an expansion is proposed, ~~a~~ new manure utilization areas is added, or ~~it is~~ is required by the Department. New manure utilization areas added to an existing facility shall meet the appropriate requirements in this part. However, deemed permitted facilities shall meet the requirements of this regulation as outlined in Section 100.10.D.~~1.~~ (Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of Regulation).

B. Except as given in Section 100.30.G, swine facilities that do not have a lagoon, manure storage pond, or liquid manure treatment system, having 10,000 pounds or less of normal production animal live weight at any one time are excluded from obtaining a permit from the Department. However, these facilities shall have and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

C. Except as given in Section 100.30.G, swine facilities, that do not have a lagoon, manure storage pond, or liquid manure treatment system, having more than 10,000 pounds of normal production animal live weight at any one time and less than 30,000 pounds of normal production animal live weight at any one time are excluded from obtaining a permit from the Department. However, these facilities shall submit an Animal Facility Management Plan to the Department and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

D. Except as given in Section 100.30.G, ranged swine facilities where the size of the range area is sufficient to allow for natural degradation or utilization of the swine manure with no adverse impact to the environment are excluded from obtaining a permit from the Department. Ranged facilities shall also maintain adequate vegetative buffers between the swine range and waters of the State.

E. Except as given in Section 100.30.G, swine facilities that ~~do~~ are not produce classified swine for commercial purposes are excluded from obtaining a permit from the Department.

F. Except as given in Section 100.30.G, swine facilities that hold valid permits issued by the Department are not required to obtain a new permit if they decide to replace in kind any of the swine growing houses. ~~If the permittee chooses to leave the old swine houses in place to utilize for another purpose other than housing animals, the Department shall perform a preliminary site inspection for the proposed location of the replacement houses and approve the site prior to construction.~~

G. Swine Facilities exempted under Sections 100.30.A, B, C, D, E, and F may be required by the Department to obtain a permit. The Department shall visit the site before requiring any of these facilities to obtain a permit.

100.40. Relationship to Other Regulations.

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~B.~~ A. Applications, application fees, and the time schedules governing the review of applications, and annual operating fees are addressed in Regulation R.61-30, Environmental Protection Fees.

~~C.~~ B. The proper closeout of wastewater treatment facilities ~~is~~ are addressed in Regulation R.61-82, Proper Closeout of Wastewater Treatment Facilities. This includes swine lagoons and manure storage ponds.

~~D.~~ Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.

~~E.~~ C. Setbacks and construction specifications for potable water wells and monitoring wells shall be in accordance with Regulation R.61-71, Well Standards.

~~F.D.~~ Permits for air emissions from incinerators are addressed in ~~Regulation R.61-62,~~ Air Pollution Control Regulations and Standards.

~~G.E.~~ Disposal of swine lagoon sludge in a municipal solid waste landfill unit is addressed in ~~Regulation R.61-107.25819,~~ Solid Waste Management: Solid Waste Landfills and Structural Fill.

~~H.F.~~ Disposal of swine manure with domestic or industrial sludge is addressed in ~~Regulation R.61-9,~~ Water Pollution Control Permits, and permitted under R.61-9.

~~I. Procedures for contested cases are addressed in Regulation 61-72 and Rules of the State's Administrative Law Judge Division.~~

~~J.G.~~ Laboratory Certification is addressed in ~~Regulation R.61-81,~~ State Environmental Laboratory Certification Program.

~~K.H.~~ Water Classifications and Standards are addressed in ~~Regulation R.61-68.~~

100.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for preliminary site inspection shall be made using a form, as designated by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan. Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new swine facility or expand an existing swine facility shall make application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed and accurate application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service (NRCS) personnel or a S.C. registered professional engineer (PE). Other qualified individuals, such as certified soil scientists, or S.C. registered professional geologists (PG), etc., may prepare the land application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall at a minimum contain:

a. Facility name, address, telephone numbers, email address (if applicable), county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning or land use restrictions in this area (this information is available from the county);

c. Applicant's name, address, and telephone number (if different from above);

d. Operator's name and CAMM number;

e. Facility capacity;

- i. Number of swine;
- ii. Pounds of normal production animal live weight at any one time;
- iii. Amount in gallons of swine manure generated per year;
- iv. Description of swine manure storage and storage capacity of lagoon, treatment system, or manure storage pond (if applicable); and
- v. Description of swine manure and other swine by-products treatment (if any).

f. Concentration of constituents in swine manure including but not limited to the constituents given below:

i. Nutrients.

- (a) Nitrate- (Only needed for aerobic treatment systems).
- (b) Ammonium-Nitrogen.
- (c) Total Kjeldahl Nitrogen (TKN).
- (d) Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen).
- (e) P₂O₅ (Phosphorous Pentoxide).
- (f) K₂O (potash).

ii. Constituents.

- (a) Copper.
- (b) Zinc.

iii. Name, address, SC lab certification number, and telephone number of the laboratory conducting the analyses.

iiiiv. For new swine facilities, swine manure analysis information does not have to be initially submitted as the Department shall use swine manure analysis from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in the review of the application. Analysis of the actual swine manure generated shall be submitted to the Department six (6) months after a new swine facility starts operation or prior to the first application of swine manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Swine manure and other swine by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the swine manure and other swine by-products application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, and telephone number of the producer(s) that will land apply the swine manure and other swine by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the swine manure and other swine by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

h. Facility and manure utilization area information shall be included (as appropriate):

i. Name, ~~and address,~~ and tax map number of landowner and location of manure utilization area(s);

ii. List previous calendar years that swine manure and/or dry manure and other swine by-products were applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.5' minutes or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on the applicant's property and within 500 feet of the facility's footprint of construction or within 200 feet of any manure utilization areas;

(d) Adjacent ~~waters of the State~~ surface water bodies (including ephemeral and intermittent streams) ~~or the nearest waterbody~~;

(e) Swine manure utilization area boundaries and buffer zones;

(f) Right-of-Ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soil maps, a description of soil types, and boring locations (as applicable);

(h) Recorded Plats, Surveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year and 500-year floodplain as determined by FEMA.

iv. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name, farm address, CAMM number and county in which the farm is located;

(b) Landowner's name, address, phone number;

(c) Location (map with road names, tax map numbers, and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and any manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan; and

(h) A signed statement which informs the landowner that he is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and ~~Regulation~~ R.61-43.

~~i. For other manure utilization areas that are included in multiple Animal Facility Management Plans identify the names of all facilities that include this manure utilization area in their plan.~~

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 100.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 100.160 (Vector Control Requirements).

6. ~~The~~ The Dead Swine Disposal Plan. ~~The plan~~ shall include written details for handling and disposal of dead swine. Plans should include method of disposal, any construction specifications necessary, and management practices. See Section 100.130 for specific requirements on dead swine disposal.

7. A ~~Soil Monitoring Plan. A soil monitoring plan~~ shall be developed for all manure utilization areas. ~~See~~ See Section 100.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All "Notice of Intent to Build or Expand a Swine Facility" forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings that are required to be notified. See Section 100.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan shall at a minimum contain a list of entities or agencies the producer shall contact in the event of a structural failure (such as a dike/dam breach) lagoon, treatment system, or manure storage pond breach, major mass animal mortality, fire, flood, or other similar type problem. For facilities in the coastal areas of the State, the emergency plan shall address actions to be taken by a producer during hurricane season (such as providing additional freeboard during that time) and when advance warning is given on any extreme weather condition.

11. All waivers as specified in Section 100.80 (Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements), if applicable.

12. Application fee and the first year's operating fee as established by Regulation R.61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the swine facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications only need to contain the information applicable to the requested modification or any additional information the Department deems necessary.

100.60. Public Notice Requirements.

A. Small Swine Facilities (~~500,000 pounds or less of normal production live weight~~).

~~1. For persons seeking to construct a new small swine facility, the Department shall have the applicant notify all adjoining property owners and people residing on property within 1/4 mile (1320 feet) of the proposed location of the facility (footprint of construction) of the applicants intent to build a swine facility. The applicant shall use a notice of intent form provided by the Department. The Department shall also post up to four notices on the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department. The notice of intent shall advise adjoining property owners that they can send comments on the proposed animal facility directly to the Department.~~

1. For persons seeking to construct a new small swine facility, the applicant shall:

a. Notify all adjoining property owners and people residing on property within 1/4 mile (1,320 feet) of the proposed location of the facility (footprint of construction and manure storage pond) of the applicant's intent to build a swine facility.

b. Notify the parties listed in A.1.a. of this section using an NOI form provided by the Department. The NOI shall advise the adjoining property owners they may send comments on the proposed animal facility directly to the Department.

~~2. For existing small swine facilities seeking to expand their current operations, the Department shall post up to four notices of intent to expand a swine facility on the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department.~~

2. For persons seeking to construct a new small swine facility or expand an established small swine facility, the Department shall post a Public Notice of application received, for fifteen (15) business days, on the Department's website. The Department may also post up to four (4) notices, in the four (4) cardinal directions around the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department.

3. For small swine facilities, the Department shall review all comments received. If the Department receives twenty (20) or more letters from different people living in a two-mile radius of the proposed facility requesting a meeting or the Department determines significant comment exists, a meeting shall be held to discuss and seek resolution to the concerns prior to a permit decision being made. All persons who have submitted written comments shall be invited in writing to the meeting. First Class US mail service, email, or hand delivery to the address of the interested party shall be used by the Department for the meeting invitation. However, if the Department determines that the number of persons who submitted written comments is significant, the Department shall publish a notice of the public meeting in a local newspaper of general circulation instead of notifying each individual by ~~First e~~Class mail. In addition, the Department shall notify all group leaders and petition organizers in writing or email. Agreement of the parties is not required for the Department to make a permit decision.

B. Large Swine Facilities (~~greater than 500,000 pounds normal production live weight~~).

1. For persons seeking to construct a new large swine facility or expand an established large swine facility, the applicant shall:

~~a. Notify all property owners within 1/4 mile (1320 feet) of the proposed location of the facility (footprint of construction) utilizing a form provided by the Department; and~~

a. Notify all adjoining property owners and people residing on property within 1/4 mile (1,320 feet) of the proposed location of the facility (footprint of construction and manure storage pond) of the applicant's intent to build a swine facility.

~~b. Notify persons residing on adjoining property;~~

b. Notify the parties listed in B.1.a. of this section using an NOI form provided by the Department. The NOI shall advise the adjoining property owners they may send comments on the proposed animal facility directly to the Department.

2. For persons seeking to construct a new large swine facility or expand an established large swine facility, the Department shall ~~at the expense of the applicant:~~

~~a. Publish a notice of intent to construct or expand an established swine facility in a local newspaper of general circulation~~ Post a Public Notice of application received, for fifteen (15) business days, on the Department's website. The Department may also post up to four (4) notices, in the four (4) cardinal directions around the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department;

b. Notify the appropriate county commission;

c. Notify the appropriate water supply district (owners or operators of any potable surface water treatment plant located downstream from the proposed swine facility that could reasonably be expected to be adversely impacted if a significant problem arose); and

d. Notify any person who asked to be notified;

3. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the notifications in Section 100.60.B.2.b-d. If the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all groups, organization leaders, and petition organizers in writing, or email. The Department shall ask these leaders and organizers to notify their groups or any concerned citizens who signed the petitions.

4. The notice shall contain instructions for public review and comment to the Department on the proposed construction and operation of the swine facility. The notice shall allow for a minimum ~~thirty~~ fifteen (15) business-day comment period.

5. When the Department receives twenty (20) or more letters or emails from different people living in a two-mile radius of the proposed facility requesting a ~~hearing~~ public meeting or the Department determines there is significant public interest, the Department shall conduct a public ~~hearing~~ meeting and shall provide notice of the public ~~hearing~~ meeting in accordance with the notice requirements provided for in Section 100.60.B.2.a-d. The initial public notice and ~~hearing~~ meeting notice can be combined into one notice. ~~The Department shall provide at least thirty days (30) notice of the hearing.~~

C. Additional requirements for X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight.~~

1. For persons seeking to construct a new X-large swine facility or expand an established X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~, the applicant shall notify all property owners and person(s) residing on property within one mile (5280 feet) of the proposed location of the X-large swine facility (footprint of construction and manure storage pond) by certified mail. The notification must include the following information:

a. Name and address of the person proposing to construct an X-large swine facility;

b. The type of swine facility, the design capacity, and a description of the proposed swine manure management system;

c. The name and address of the preparer of the Animal Facility Management Plan;

d. The address of the local Natural Resources Conservation Service (NRCS) office; and

e. A statement approved by the Department informing the adjoining property owners and property owners within one (1) mile of the proposed facility that they may submit written comments or questions to the Department.

2. The applicant shall conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts. The applicant shall provide at least thirty ~~(30)~~ (30) days notice of the meeting date and time by advertisement in a local newspaper of general circulation in the area of the proposed facility. The public meeting notice can be combined into one (1) notice in combination with the notice run by the Department. However, the applicant must provide information concerning the date, time, and location of the public meeting at the time of application. The minutes of the public meeting, proof of advertisement, and opinions derived from the meeting must be submitted to the Department.

3. The Department shall conduct a public ~~hearing~~meeting and shall provide notice of the public ~~hearing~~meeting in accordance with the notice requirements provided for in Section 100.60.~~CB~~.2.a-d. The initial public notice and ~~hearing~~meeting notice can be combined into one (1) notice. The Department shall provide at least thirty (30) days ~~(30)~~notice of the ~~hearing~~meeting.

D. For properties that have multiple owners or properties that are in an estate with multiple heirs, the Department, ~~at the expense of the applicant,~~ shall ~~publish~~send an notice of intent NOI to construct an animal facility ~~in a local paper of general circulation in the area of the facility~~by certified mail to each individual. This notice ~~in the newspaper~~ shall serve as notice to these multiple property owners of the ~~producer's~~applicant's intent to build a swine facility. ~~The cost to run this notice is not included in the application fee, and therefore shall be billed directly to the permit applicant for payment. This notice fee shall be paid prior to the issuance of the permit.~~

E. When comments are received by ~~electronic~~email, the Department shall acknowledge receipt of the comment by electronic mail. These comments shall be handled in the same manner as written comments received by postal mail.

F. The Department shall consider all relevant comments received in determining a final permit decision.

G. The Department shall send notice of the permit decision to issue or deny the permit to the applicant, all persons who commented in writing to the Department, and all persons who attended the public ~~hearing~~meeting, if held. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the decision notification. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all group leaders and petition organizers in writing or email. The Department shall ask these leaders and organizers to notify members of their groups or any concerned citizens who signed the petitions.

H. For permit issuances, the Department shall publish a notice of issuance of a permit to construct or expand a swine facility ~~in a local newspaper of general circulation in the area of the facility~~on the Department's website.

I. For permit denials, the Department shall give the permit applicant a written explanation which outlines the specific reasons for the permit denial.

J. For permit denials, the Department may publish a notice of decision ~~in a local newspaper of general circulation in the area of the facility. If the number of concerned citizens who submitted written comments is small, the department may send each concerned citizen a letter by first class mail in lieu of the newspaper notice~~on the Department's website.

K. The Department shall include, at a minimum, the following information in the public notices: the name and location of the facility, a description of the operation and the method of manure and other swine by-products handling, instructions on how to appeal the Department's decision, the time frame for filing an appeal, the date of the decision, and the date upon which the permit becomes effective.

100.70. Permit Decision Making Process.

A. No permit shall be issued before the Department receives a complete application package.

B. The agricultural program of the Department is not involved in local zoning and land use planning. Local government(s) may have more stringent requirements for agricultural animal facilities. The permittee

is responsible for contacting the appropriate local government(s) to ensure that the proposed facility meets all the local requirements.

C. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Animal Facility Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

D. A preliminary site inspection shall be made by the Department before a ~~permit decision is made~~ complete application package is received by the Department.

E. The Department shall consider the cumulative impacts including, but not limited to; impacts from evaporation; storm water; and other potential and actual point and nonpoint sources of pollution runoff; levels of nutrients or other elements in the soils and nearby waterways; groundwater or aquifer contamination; pathogens or other elements; and the pollution assimilative capacity of the receiving waterbody. These cumulative impacts will be considered prior to permitting new or expanded swine facilities. Alternative manure and other swine by-products treatment and utilization methods may be required in watersheds which are nutrient-sensitive waters, or impaired by pathogens.

F. The Department shall act on all permits to prevent, so far as reasonably possible considering relevant standards under state and federal laws, an increase in pollution of the waters and air of the State from any new or enlarged sources.

G. The Department also shall act on all permits so as to prevent degradation of water quality due to the cumulative and secondary effects of permit decisions. Cumulative and secondary effects are impacts attributable to the collective effects of a number of swine facilities in a defined area and include the effects of additional projects similar to the requested permit proposed on sites in the vicinity. All permit decisions shall ensure that the swine facility and manure treatment and utilization alternative with the least adverse impact on the environment be utilized. To accomplish this, new and expanding facilities, except X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~, shall use the best available technology economically achievable for the handling, storage, processing, treatment, and utilization of manure. New and expanding X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall use the best available technology for the handling, storage, processing, treatment, and utilization of manure. Cumulative and secondary effects shall include, but are not limited to; runoff from land application of swine manure and a swine facility; evaporation and atmospheric deposition of elements; ground-water or aquifer contamination; the buildup of elements in the soil; and other potential and actual point and nonpoint sources of pollution in the vicinity.

H. ~~The~~ Setback limits given in ~~this part~~ Part 100 are ~~minimum~~ siting requirements ~~(with exception to those that are not labeled as minimum requirements, which are absolutes). On a case by case basis the Department may require additional separation distances applicable to swine facilities. The Department shall evaluate the proposed site including, but not limited to, the following factors when determining if additional distances are necessary~~ following factors to determine if any special conditions are necessary:

- ~~1. Proximity to 100 year floodplain~~ Latitude and Longitude;
- ~~2. Geography and soil types on the site~~ Down-wind Receptors; and
- ~~3. Location in a watershed~~ Nutrient Management Plan;

~~4. Classification or impairment of adjacent waters;~~

~~5. Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately owned wildlife refuge, park, or trust property;~~

~~6. Proximity to other known point source discharges and potential nonpoint sources;~~

~~7. Slope of the land;~~

~~8. Swine manure application method and aerosols;~~

~~9. Runoff prevention;~~

~~10. Adjacent groundwater usage;~~

~~11. Down wind receptors; and~~

~~12. Aquifer vulnerability.~~

~~I. The appeal of a permit decision is governed by the SC Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Judge Division.~~

~~J.I.~~ When a permit is issued it shall contain an issue date, an effective date, and, when applicable, a construction expiration date. The effective date shall be at least ~~twenty (20)~~ fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit shall be effective on the effective date.

~~K.J.~~ The swine facility, lagoon, treatment system, or manure storage pond can be built only when the permit is effective with no appeals pending. The facility cannot be placed into operation until the Department grants written ~~authorization~~Approval to ~~begin operations~~Operate (ATO).

~~L.K.~~ To receive ~~an authorization to begin operations~~ ATO, the producer shall have the preparer of the Animal Facility Management Plan submit in writing to the Department the following information:

1. Certification that the construction of the structural components (such as the facility footprint, the lagoon, treatment system and manure storage pond) has been completed in accordance with the approved Animal Facility Management Plan and the requirements of this regulation;

2. Certification that no portion of the facility has been construction in the 100-year floodplain;

3. Certification for containment of structural failures, if applicable; and

4. Certification for lagoon or manure storage pond lining, if applicable.

~~M.L.~~ The Department shall conduct a final inspection before granting ~~authorization~~approval to a producer to begin operations.

~~N.M.~~ The Department shall grant written ~~authorization~~approval for the producer to begin operations after it has received the information in 100.70.~~LK~~ and the results of a final inspection are satisfactory.

~~Ø.N.~~ Swine Facility Permit Construction Expiration and Extensions.

1. Construction permits issued by the Department for agricultural animal facilities shall be given two (2) years from the effective date of the permit to start construction and three (3) years from the effective date of the permit to complete construction.

2. If the proposed construction as outlined in the permit is not started prior to the construction start expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

3. If construction is not completed and the facility is not placed into operation prior to the construction completion expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

4. If only a portion of permitted facility (animal growing houses and associated manure treatment and/or storage structures are completely constructed, but not all houses originally permitted were constructed) is completed prior to the construction completion expiration date, the construction for the remainder of the permit may be utilized within the permit life. The permittee shall obtain Departmental approval prior to utilizing the permit in this manner. The Department may require that the permittee submit additional information or update the Animal Facility Management Plan prior to approval.

5. Extensions of the construction permit start and completion dates may be granted by the Department. The permittee shall submit a written request explaining the delay and detailing any changes to the proposed construction. This request shall be received not later than ~~60 days prior to the~~ expiration date that the permittee proposes to extend. The maximum extension period shall not exceed one (1) year. There shall be no more than two (2), one-year extension periods per permit to construct, granted.

~~P.Q.~~ Permits issued under this regulation for all swine facilities shall be renewed at least every seven (7) years. ~~However, if a facility is classified as a CAFO under the NPDES Regulations in R.61-9, the expiration date shall be no more than five (5) years after the issue date.~~

~~Q.P.~~ An expired permit (final expiration date for renewal) issued under this part continues in effect until a new permit is effective if the permittee submits a complete application, to the satisfaction of the Department, at least 180 days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two (2) consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing within thirty (30) calendar days of when they go out of business.

~~R.Q.~~ Permit renewal applications shall meet all the requirements of this regulation as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

~~S.R.~~ No permit will be issued to an applicant who contracts with an integrator or integrating company unless the permit is in accordance with the approved cumulative environmental and public health impact assessment plan as required in part 500.20 (Integrator Submittal Requirements) of this regulation.

100.80. Swine Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements.

A. Siting Requirements applicable to all small ~~(500,000 pounds or less of normal production live weight)~~ swine facilities and the lagoons, treatment systems, and manure storage ponds associated with them.

1. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well (excluding the applicant's well) is 200 feet. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well owned by the applicant is 50 feet (as required by R.61-71).

2. The minimum separation distance between a lagoon, treatment system, or a manure storage pond and a public or private human drinking water well (excluding the applicant's well) is 500 feet. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.

3. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into waters of the State (~~excluding~~including ephemeral and intermittent streams) and a swine facility, swine lagoon, treatment system, or manure storage pond is 100 feet. ~~The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

4. ~~Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into an ephemeral or intermittent stream, and a swine facility, swine lagoon, treatment system, or manure storage pond is 50 feet. The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~5.4.~~ The minimum separation distance required between a swine facility, lagoon, treatment system, or manure storage pond and ephemeral or intermittent streams is 100 feet. ~~The setback from ephemeral or intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~6.5.~~ The minimum separation distance required between a small swine facility (not including the lagoon, treatment system, or manure storage pond) and waters of the State (excluding ephemeral and intermittent streams) is 100 feet.

~~7.6.~~ The minimum separation distance required between a small swine lagoon, treatment system, or manure storage pond and waters of the State (excluding ephemeral and intermittent streams) is 500 feet.

~~8.7.~~ If the waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a small swine lagoon, treatment system, or a manure storage pond and waters of the State (not including ephemeral and intermittent streams) is 1,320 feet (1/4 mile).

9. ~~The distance required between a small swine lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) can be reduced to 200 feet if the permittee implements a design to control the discharge from a failed lagoon, treatment system or manure storage pond so that it never enters waters of the State (not including ephemeral and intermittent streams) and the designer, either a NRCS employee or a registered engineer, certifies that the system has been constructed as specified. The distance shall not be reduced if the waters of the state are designated~~

~~Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters.~~

~~10. For small facilities with a capacity of 250,000 pounds or less of normal production animal live weight at any one time, the separation distance required between a swine growing area (pens or barns not including range areas) and the distance to lot line of real property owned by another person is 200 feet or 1000 feet from the nearest residence, whichever is greater.~~

~~11.8. For small swine facilities with a capacity of more than 250,000 pounds and less than 500,001 pounds of normal production animal live weight at any one time, the separation distance required between a swine growing area (pens or barns not including range areas) and the lot line of real property owned by another person is 400 feet ~~or~~ and 1,000 feet from the nearest residence, ~~whichever is greater.~~~~

~~12. For small facilities with a capacity of 250,000 pounds or less of normal production animal live weight at any one time, the separation distance required between a lagoon, treatment system, and/or manure storage pond and the lot line of real property owned by another person is 300 feet or 1000 feet from the nearest residence, whichever is greater.~~

~~13.9. For small swine facilities with a capacity of more than 250,000 pounds and less than 500,001 pounds of normal production animal live weight at any one time, the separation distance required between a lagoon, treatment system, or manure storage pond and the lot line of real property owned by another person is 600 feet ~~or~~ and 1,000 feet from the nearest residence, ~~whichever is greater.~~~~

~~14.10. The distances in items ~~10-13~~ 8 and 9 above can be reduced by written consent of the adjoining property owner, unless a swine facility is located on the adjacent property or within 1,000 feet of the property line. Written consent is not needed when the Department reduces the distances under the requirements of Part 300.~~

B. Siting Requirements applicable to all large swine facilities, ~~with less than 1,000,000 pounds normal production live weight,~~ and the lagoons, treatment systems, and manure storage ponds associated with the facility.

1. The minimum separation distance between a large swine facility ~~with less than 1,000,000 pounds normal production live weight~~ (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well (excluding the applicant's well) is 200 feet. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well owned by the applicant is 50 feet (as required by R.61-71).

2. The minimum separation distance between a lagoon, treatment system, or a manure storage pond, ~~with less than 1,000,000 pounds normal production live weight,~~ and a public or private human drinking water well (excluding the applicant's well) is five hundred (500) feet. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.

3. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into waters of the State (~~excluding~~including ephemeral and intermittent streams) and a swine facility, swine lagoon, treatment system, or manure storage pond, ~~with less than 1,000,000 pounds normal production live weight,~~ associated with a large swine facility is 100 feet. ~~The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer at least 50 feet wide, that meets NRCS standards at a minimum, is installed and maintained.~~

~~4. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into an ephemeral or intermittent stream, and a swine facility, swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, is 50 feet.~~

~~54. The minimum separation distance required between a large swine facility, lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and ephemeral or intermittent is 100 feet. The setback from ephemeral or intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer at least 50 feet wide, that meets NRCS standards at a minimum, is installed and maintained. associated with the facility and ephemeral or intermittent streams is 200 feet.~~

~~65. The minimum separation distance required between a large swine facility with less than 1,000,000 pounds normal production live weight (not including the lagoon, treatment system, or manure storage pond) and waters of the State (~~excluding~~including ephemeral and intermittent streams) is 200 feet.~~

~~76. The minimum separation distance required between a large swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and waters of the State (not including ephemeral and intermittent streams) is 1,320 feet (1/4 mile). If the waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) is 2,640 feet (1/2 mile). A minimum 100-foot wide vegetative water quality buffer of plants and trees is required to be installed and maintained on the site between the facility and any down slope waters of the State. Sites with existing vegetation may qualify to utilize the existing vegetation for a buffer, if the vegetation is deemed sufficient. For new facilities constructed in areas where natural vegetation is not present, the Department shall evaluate these sites on a case-by-case basis to determine the amount of vegetative buffer that shall be planted. However, each site shall be required at a minimum to provide a vegetative buffer that meets the current NRCS standards.~~

~~8. The distance required between a large swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and waters of the State (not including ephemeral and intermittent streams) can be reduced to 500 feet if the permittee implements a design to control the discharge from a failed lagoon, treatment system, or manure storage pond so that it never enters waters of the State (not including ephemeral and intermittent streams) and the designer, either a NRCS employee or a professional engineer, certifies that the plan has been implemented as specified. The distance shall not be reduced if the waters of the state are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters.~~

~~9.7. The minimum separation distance required between a large swine facility with less than 1,000,000 pounds normal production live weight (growing area, pens or barns not including range areas) and real property owned by another person is 1,000 feet.~~

~~10. For swine facilities with a capacity of 500,001 to 750,000 pounds of normal production animal live weight at any one time, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and real property owned by another person is 1,000 feet.~~

~~11.8. For large swine facilities with a capacity of 750,001 to 1,000,000 pounds of normal production animal live weight at any one time, the minimum separation distance required between a lagoon, treatment system and/or a waste manure storage pond and real property owned by another person is 1,250 feet.~~

~~12.9.~~ The minimum separation distance required between large swine facilities ~~with less than 1,000,000 pounds normal production live weight~~ is two (2) miles.

~~13.10.~~ A separation distance to adjacent land as provided in ~~items 9-11~~ 7 and 8 above does not apply to a swine facility, lagoon, treatment system, or manure storage pond which is constructed or expanded, if the titleholder of adjoining land to the concentrated swine operation executes a written waiver with the title holder of the land where the swine facility is established or proposed to be located, under terms and conditions that the parties negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the Register of Deeds of the county in which the benefited land is located. The filed waiver precludes enforcement of ~~100.80.B.9-11~~ 7 and 8 as it relates to the swine facility and to real property owned by another person. The permittee shall submit a copy of the document with the recording stamp to the Department. The separation distances shall not be reduced or waived if a swine facility is located on the adjacent property or within 1,000 feet of the property line.

C. Siting requirements applicable to X-large swine facilities, ~~with 1,000,000 pounds or more normal production live weight~~, and the lagoons, treatment systems, and manure storage ponds associated with the facility are as follows:

1. The minimum separation distance required between an X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ and waters of the State (~~excluding~~including ephemeral and intermittent streams) is 2,640 feet (½ mile).

2. The minimum separation distance required between an X-large swine lagoon, treatment system, or manure storage pond, ~~with 1,000,000 pounds or more normal production live weight~~, and waters of the State (~~not~~including ephemeral and intermittent streams) is 2,640 feet (½ mile). If the waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) is 3,960 feet (¾ mile). A minimum 100-foot wide vegetative water quality buffer of plants and trees is required to be installed and maintained on the site between the facility and any down slope waters of the State. Sites with existing vegetation may qualify to utilize the existing vegetation for a buffer, if the vegetation is deemed sufficient. For new facilities constructed in areas where natural vegetation is not present, the Department shall evaluate these sites on a case-by-case basis to determine the amount of vegetative buffer that shall be planted. However, each site shall be required at a minimum to provide a vegetative buffer that meets the current NRCS standards.

3. The minimum separation distance required between an X-large swine facility, ~~with 1,000,000 pounds or more normal production live weight~~ (including the lagoon, treatment system, and manure storage, pond) and real property owned by another person ~~or a residence (excluding the applicant's residence)~~ is 1,750 feet.

4. The minimum separation distance between an X-large swine facility with ~~1,000,000 pounds or more normal production live weight~~ (including a lagoon, treatment system, or manure storage pond) and a potable water well (excluding the applicant's well) is 1,750 feet.

5. The minimum separation distance required between X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ is twenty-five (25) miles.

D. A new swine facility or an expansion of an established swine facility may not be located in the 100-year floodplain.

E. Water (a pond) that is completely surrounded by land owned by the permit applicant and has no connection to other water is excluded from the setback requirements outlined in this part.

F. All lagoon and manure storage pond setbacks contained in this part shall be measured from the outside toe of the dike.

G. Setback limits given in this part are minimum siting requirements, except those not labeled as minimum requirements, which are absolutes. On a case-by-case basis the Department may require additional separation distances to the minimum setbacks applicable to swine facilities. See Section 100.70.H. for specific criteria evaluated for determining if greater setbacks should be required.

100.90. General Requirements for Swine Manure Lagoons, Treatment Systems, and Swine Manure Storage Ponds.

A. The lagoon, treatment system, or manure storage pond shall be designed by a professional engineer or an NRCS engineer and the construction shall be certified by the design engineer or professional engineer licensed in S.C. It is a violation of these regulations and the Pollution Control Act for the owner or operator of the facility to make modifications or physical changes to the lagoon, treatment system, or manure storage pond without the prior approval of the Department and supervision of NRCS or a professional engineer. Plans and specifications for lagoon, treatment system, or manure storage pond modifications shall be designed and certified by NRCS or a professional engineer and submitted to the Department for approval prior to the modification.

B. Swine manure lagoons and manure storage ponds shall be designed at a minimum to NRCS-CPS. The ~~manure storage pond or lagoon or manure storage pond~~ shall be designed to provide a minimum storage for manure, wastewater, normal precipitation less evaporation, normal runoff, residual solids accumulation, capacity for the twenty-five (25) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least one and one half (1 ½) feet of freeboard. New X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall be designed to provide storage capacity for all the above mentioned items including the fifty (50) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least two (2) feet of freeboard.

C. All lagoons and storage ponds shall be provided with a liner, designed with an initial specific discharge rate of less than 0.0156 feet/day in order to protect groundwater quality. Lagoons and manure storage ponds at swine facilities shall be lined with either a natural liner or a geomembrane liner or a combination thereof. Lagoons and manure storage ponds at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ or at facilities within delineated source water protection areas or vulnerable recharge areas, as determined by the Department, shall be lined with a geomembrane liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec. Geomembrane liners, at a minimum, shall meet NRCS-CPS. When lagoons or manure storage ponds are lined using only soils with low permeability rates (e.g., clay), the Department shall require appropriate documentation to demonstrate that the computed soil permeability of the liner is sufficient to prevent seepage greater than the initial specific discharge rate. Appropriate certification shall be provided by the preparer of the Animal Facility Management Plan that the NRCS-CPS for lining lagoons and/or manure storage ponds with soils have been met.

D. Lagoons and manure storage ponds at swine facilities shall not exceed one million cubic feet of total volume, unless the lagoon or manure storage pond implements a design to control the discharge from a failed lagoon, treatment system, or manure storage pond so that it never enters waters of the State.

E. Large swine facilities ~~with less than 1,000,000 pounds normal production live weight~~ are prohibited from utilizing open anaerobic lagoons or manure storage ponds. These facilities shall utilize best available technology that is economically achievable for the manure handling, treatment, storage, and utilization.

F. X-Large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ are prohibited from utilizing open lagoons or manure storage ponds. These facilities shall utilize best available technology for the manure handling, treatment, storage, and utilization. Lagoons and manure storage ponds utilized at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall be designed with airtight covers. Air pollution control devices utilizing the Best Available Technology shall be installed on all lagoon cover vents and openings to remove ammonia, hydrogen sulfide, methane, formaldehyde, and any other organic and inorganic air pollutants, which may be required by the Department. Such air pollution control devices shall meet all the requirements of the Department and appropriate air quality permits shall be obtained. "Best Available Technology" means, for the air emissions purpose of this regulation, the rate of emissions which reflects the most stringent emissions limitations required by any State regulation or permit, existing at the time the application is made, for all pollutants emitted from this source category; or, the most stringent emissions limit achieved in actual practice, whichever is more stringent.

G. If seepage results in either an adverse impact to groundwater or a significant adverse trend in groundwater quality occurs, as determined by the Department, the lagoon or manure storage pond shall be repaired at the owner's or operator's expense. Assessment and/or additional monitoring (more wells, additional constituents, and/or increased sampling frequency) may be required by the Department to determine the extent of the seepage. The repairs and/or assessment shall be completed in accordance with an implementation schedule approved by the Department. The Department may require groundwater corrective action.

H. Manure and other swine by-products shall not be placed directly in or allowed to come into contact with groundwater and/or surface water. The minimum separation distance between the lowest point of the lagoon and/or manure storage pond and the seasonal high water table beneath the lagoon and/or manure storage pond is two (2) feet. If a geomembrane liner is installed, then the minimum separation distance is one (1) foot from the seasonal high water table. Designs that include controlled drainage for water table adjustment shall be evaluated by the Department on a case-by-case basis, and may include additional monitoring and groundwater control requirements. If a design is proposed for water table adjustment, the design shall not impact wetlands. Groundwater monitoring wells may be required to be installed and monitored at a frequency as given in the permit for the facility in situations where a liner is used to allow the lowest point of a lagoon to be less than two (2) feet to the seasonal high water table.

I. Owners of lagoons and manure storage ponds at large and X-large swine facilities ~~(greater than 500,000 pounds normal production live weight)~~ are shall be required to install at least one (1) up-gradient and two (2) down-gradient monitoring wells at a depth which the Department considers appropriate around the lagoon or series of lagoons in order to monitor groundwater quality. For small swine facilities ~~(500,000 pounds or less of normal production live weight)~~, the Department may require monitoring wells upon Department review of the submittal package.

J. A groundwater monitoring plan shall be submitted with the permit application to the Department. All applicable State certification requirements regarding well installation, laboratory analyses, and report preparation shall be met. Groundwater monitoring wells shall be sampled at least once annually by qualified personnel, at the expense of the permittee. Monitoring wells at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ must be sampled at least quarterly, unless more frequent sampling is specified in the permit. The results shall be submitted to the Department in accordance with the specified permit requirements. Groundwater monitoring results shall be maintained by the producer for

eight (8) years. The Department may conduct routine and random visits to the swine facility to sample the monitoring wells.

K. The monitoring wells shall be properly installed and sampled prior to use of the lagoon or manure storage pond. All monitoring wells shall be sampled in accordance with the parameters identified in the permit such that a background concentration level can be established.

L. Before the construction of a lagoon and/or a manure storage pond, the owner or operator shall remove all under-drains that exist from previous agricultural operations that are under the lagoon or manure storage pond and/or within twenty-five (25) feet of the outside toe of the proposed lagoon or manure storage pond dike. This requirement does not include under-drains that are approved as a part of a design that includes controlled drainage for water table adjustment.

M. Lagoons and manure storage ponds at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall install automated lagoon level monitoring devices

N. Proper water levels in lagoons and manure storage ponds, as per plans and specifications, shall be maintained at all times by the permittee. The Department may require specific lagoon or manure storage pond volume requirements in permits. An approved marker shall be installed to measure waste levels.

O. If a lagoon, treatment system, or manure storage pond, or both, breaches or fails ~~in any way~~, the owner or operator of the swine facility shall immediately notify the Department, the appropriate local government officials, and the owners or operators of any potable surface water treatment plant located downstream from the swine facility that could reasonably be expected to be adversely impacted.

P. Lagoons, treatment systems, and manure storage ponds shall be completely enclosed with an acceptable fence, unless a fence waiver is obtained from the Department.

Q. Lagoons and manure storage ponds shall have at least four (4) warning signs posted in the four (4) cardinal directions around the perimeter of the structure. These signs should read, "Warning - Deep and Polluted Water", ~~and one should be posted on each side of the lagoon or manure storage pond.~~

R. Vegetation on the dikes and around the lagoon or manure storage pond should be kept below a maximum height of eighteen (18) inches. Trees or deeply rooted plants shall be prevented from growing on the dikes or within twenty-five (25) feet of the outside toe of the dikes of the lagoon, treatment systems, or manure storage pond. Existing trees on the dikes shall be evaluated by NRCS staff or a dam engineer licensed in South Carolina to determine if they should be removed or remain.

S. Livestock or other animals that could cause erosion or damage to the dikes of the lagoon or manure storage pond shall not be allowed to enter the lagoon or manure storage pond, or graze on the dike or within twenty-five (25) feet of the outside toe of the dike.

T. The Department shall require existing facilities, regardless of size, with a history of manure handling, treatment, and disposal problems related to a lagoon, to phase out the existing lagoon and incorporate new technology.

100.100. Manure Utilization Area Requirements.

A. Application Rates. The Department shall approve an Animal Facility Management Plan that establishes an application rate for each manure utilization area based on the agronomic application rate of the specific crop(s) being grown. Other factors considered are the manure and other swine by-products.

impact on the environment, animals, and people living in the vicinity. The application rate shall also be based on the limiting constituent (either a nutrient or other constituent as given in item 100.100.B). In developing annual constituent loading rates and cumulative constituent loading rates, the Department shall consider:

1. Soil type;
2. Type of vegetation growing in land-applied area;
3. Proximity to 100-year floodplain;
4. Location in watershed;
5. Nutrient sensitivity of receiving land and waters;
6. Soil nutrient testing in conjunction with soil productivity information;
7. Nutrient, copper, zinc, and constituent content of the manure and other swine by-products being applied;
8. Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately-owned wildlife refuge, park, or trust property;
9. Proximity to other point and nonpoint sources;
10. Slope of land; anything over ten (10) percent must use runoff best management practices, runoff controls, or conservation features as per NRCS.
11. Distance to water table or groundwater aquifer;
12. Timing of manure application to coincide with vegetative cover growth cycle;
13. Timing of harvest of vegetative cover;
14. Hydraulic loading limitations;
15. Soil assimilative capacity;
16. Type of vegetative cover and its nutrient uptake ability;
17. Method of land application; and
18. Aquifer vulnerability.

B. Constituent Limits for Land Application of Swine manure and other swine by-products.

~~1. Swine Manure and other swine by-products.~~ The Department may establish constituent limits in permits on a case-by-case basis on swine manure and other swine by-products to be land applied. Swine manure and other swine by-products containing only the standard constituents at normal concentrations as given by commonly accepted reference sources, such as Clemson University, American Society of

Agricultural Engineers, Midwest Planning Service Document, or NRCS, can be land applied at or below agronomic rates without any specific constituent limits in a permit. When the swine manure or other swine by-products analysis indicates there are levels of copper, or other constituents of concern, the Department shall establish constituent limits in permits for each constituent of concern to ensure the water quality standards of ~~Regulation R.61-68~~ are maintained. For these cases the producer shall comply with the following criteria:

a. Constituent Limits. If swine manure and other swine by-products subject to a constituent limit is applied to land, either:

i. the cumulative loading rate for each constituent shall not exceed the rates in Table 1 of Section 100.100; or

ii. the concentration of each constituent in the swine manure and other swine by-products shall not exceed the concentrations in Table 2 of Section 100.100.

b. Constituent concentrations and loading rates - swine manure.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 100.100 - CUMULATIVE CONSTITUENT LOADING RATES			
Cumulative Constituent Loading Rate			
Constituent	(kilograms per hectare)	(pounds per acre)	
Copper	1500	1339	
Zinc	2800	2499	

ii. Constituent concentrations.

TABLE 2 OF SECTION 100.100 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 100.100 - ANNUAL CONSTITUENT LOADING RATES			
Annual Constituent Loading Rate			
Constituent	(kilograms per hectare per 365 day period)	(pounds per acre per 365 day period)	
Copper	75	67	
Zinc	140	125	

c. Additional constituents limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 to land if any of the rates in Table 1 of Section 100.100.B.1 have been reached unless the constituent is removed from the manure and other swine by-products.

e. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied to land during a 365-day period after the annual application rate in Table 3 of Section 100.100.B.1 has been reached.

f. If swine manure and other swine by-products subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 have not been applied to the site, then the cumulative rates apply.

g. If swine manure and other swine by-products subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 have been applied to the site and the cumulative amount of each constituent is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 100.100.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manure in combination with the fertilizer shall not ~~be used so as to~~ exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any producer who confines swine shall ensure that the applicable requirements in this part are met when the swine manure and other swine by-products are applied to the land.

3. Swine manure and other swine by-products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow-covered. Swine manure and other swine by-products shall not be applied during inclement weather or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless approved by the Department in an emergency situation.

4. Swine manure and other swine by-products shall not be placed directly in groundwater.

5. ~~The~~ All land application equipment, (e.g. Spreader, injection) when used once or more per year, shall be calibrated at least annually by the ~~producer~~ person land applying. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the producer and made available for Department review upon request. If the land application equipment has not been used in over a year, ~~then~~ the equipment shall be calibrated prior to use.

6. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied to the land except in accordance with the requirements in this part.

7. A producer who supplies swine manure and other swine by-products to another person for land application shall provide the person who will land apply the manure and other swine by-products with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. The producer shall also supply the person who will land apply the manure with a copy of the crop management plan included in their Animal Facility Management Plan ~~or a copy of the Land Application brochure approved by the Department which outlines the land application requirements and responsibility for proper management of animal manure.~~

8. Swine manure and other swine by-products shall not be applied to or discharged onto a land surface when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

9. Soil sampling (usually 6-8 inch depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled at least once per year. If manure application frequency shall be less than once per year, then at least one (1) soil sample shall be taken prior to returning to that field for land application. All new manure utilization areas shall be evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department.

10. Soil sampling to a depth of eighteen (18) inches ~~shall may be performed~~ required by the Department within forty-five (45) days after each application of swine manure, but no more than two (2) times per year if the application frequency is more than twice per year. This sampling shall be performed for at least three (3) years after the initial application on at least one (1) representative manure utilization area for each crop grown to verify the estimated calculated swine manure application rates for the utilization areas. The date of manure application and the date of sampling shall be carefully recorded. The sampling shall be conducted at depths of zero to six (0 to 6) inches, six to twelve (6 to 12) inches, and twelve to eighteen (12 to 18) inches with nitrates and phosphorus being analyzed.

11. The results of the pre-application and post-application sampling shall be used by the ~~producer~~ crop farmer to adjust as necessary, the amount of swine manure to be applied to a manure utilization area to meet the agronomic application rate for the crop(s) to be grown. These results shall be submitted to the Department at the time of application for permit renewal.

12. Additional soil sampling to greater depths may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination. ~~The permit shall give the appropriate depth and frequency for all soil sampling.~~

13. The permittee shall obtain the following information needed to comply with the requirements in this part:

a. A manure transfer contract shall be developed for the producer to use with any person who is accepting manure in quantities greater than twelve (12) tons per recipient per year. The contract should contain, at a minimum, the following information:

i. Name, address, county and telephone number of the person who is purchasing or accepting animal manure and other animal by-products;

ii. Manure nutrient composition (pounds per ton of Plant Available Nitrogen, Phosphorus, and Potassium) to be filled in or provided by the producer. This information shall be obtained from the manure analysis results and the producer shall provide this information on the manure transfer contract.

iii. Land application field information.

iv. Physical description (acreage, crop, soil type);

v. Soil test results (Phosphorus, Zinc, and Copper in pounds/acre); and

vi. Recommended application rates (Nitrogen, Phosphorus, and Potassium in pounds per/acre as reported on a soil test).

b. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, or a site plan sketch which includes the following information:

i. Manure application area with setbacks outlined;

ii. Known water supply wells within 100 feet of the property line;

iii. Adjacent surfacewaters, including ditches, streams, creeks, and ponds; and

iv. Identification of roads and highways to indicate location.

c. Description of application equipment and name of person to land apply manure;

d. Signed agreement that informs the land owner that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with these regulations; and

e. A copy of the land application requirements shall be provided to the recipient of the manure.

14. All persons who routinely accept manure from a producer, in quantities greater than twelve tons per recipient per year, shall be listed in the approved Animal Facility Management Plan. The Animal Facility Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the recipient of the responsibility to properly manage the land application of manure to prevent discharge of pollutants to waters of the State (including ephemeral and intermittent streams). The person accepting the manure may be required by the Department to have an Animal Facility Management Plan and a permit for their manure utilization areas. All persons who routinely accept manure from a producer, in quantities greater than twelve (12) tons per recipient per year, shall be listed in the approved animal facility management plan. The animal facility management plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the applicler of their responsibility and have a signed manure transfer contract to properly manage the land application of manure to prevent discharge of pollutants to waters of the State (including ephemeral and intermittent streams). The person accepting the manure may be required by the Department to have an animal facility management plan and a permit for their manure utilization areas.

15. All persons who accept manure from a producer, regardless of whether the land is included in the waste management plan, are responsible for land applying the manure in accordance with these requirements. The Department may require the person(s) land applying the manure to correct any problems that result from the application of manure. All persons who accept manure from a producer, in quantities less than twelve (12) tons per recipient per year are responsible for land applying the manure in accordance with these requirements and must have a signed agreement with the producer explaining their responsibility to comply with the regulations. The Department may require the persons(s) land applying the manure to correct any problems that result from the application of manure.

16. Swine manure shall not be applied to cropland more than thirty (30) days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

17. When the Department receives nuisance complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

18. The Department may require manure, ~~spread on cropland,~~ to be disked in immediately.

19. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless otherwise approved by the Department in an emergency situation.

20. Manure shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

21. If the manure is stockpiled ~~more than three (3) days outside,~~ the manure shall be stored on a concrete pad or other approved pad (such as plastic or clay lined) and covered, on a daily basis (unless otherwise specified in the permit) with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored.

22. ~~Producers who contract to transfer the swine manure and other swine by-products produced at their facility to a manure broker shall modify their existing Animal Facility Management Plan if they discontinue using the designated broker or if the manure broker goes out of the manure brokering business.~~ If a producer, who contracts to transfer the swine manure and other swine by-products produced at their facility, changes brokers, he must submit notification and a new broker contract for approval to the Department.

23. The body of vehicles transporting manure shall be wholly enclosed and, while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.

C. Setbacks for manure utilization areas (MUA) for small, large and X-large swine facilities.

1. Siting Requirements applicable to all manure utilization areas associated with small swine facilities ~~(500,000 pounds or less normal production live weight).~~

a. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure can be applied up to the property line. The 300-foot setback may be waived with the consent of the owner of the residence. If the application method is injection or immediate (same day) incorporation, manure may be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case-by-case basis.

b. The minimum separation distance ~~in feet~~ required between a manure utilization area and waters of the State (not including ephemeral and intermittent streams), ditches, and swales that drain directly into waters of the State (not including ephemeral and intermittent streams) is 100 feet.

c. The minimum separation distance ~~in feet~~ required between a manure utilization area and ephemeral and intermittent streams is 100 feet when spray application is the application method, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When

incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

d. The minimum separation distance ~~in feet~~required between a manure utilization area and ditches and swales, that drain directly into ephemeral and intermittent streams is 50 feet.

e. The minimum separation distance ~~in feet~~required between a manure utilization area and a ~~public and private~~potable drinking water well is 200 feet.

~~2. Siting Requirements applicable to all manure utilization areas associated with large swine facilities with less than 1,000,000 pounds normal production live weight.~~

~~a. The minimum separation distance in feet~~required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure can be applied up to the property line. The 300 foot setback may be waived with the consent of the owner of the residence. If the application method is injection or immediate (~~same day~~) incorporation, manure may be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case by case basis.

~~b. The minimum separation distance in feet~~required between a manure utilization area and waters of the State (not including ephemeral and intermittent streams), ditches, and swales that drain directly into waters of the State (not including ephemeral and intermittent streams) is 100 feet.

~~e. The minimum separation distance in feet~~required between a manure utilization area and ephemeral and intermittent streams is 100 feet when spray application is the application method, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within 24 hours of the initial application, the distance can be reduced to 50 feet.

~~d. The minimum separation distance in feet~~required between a manure utilization area and ditches and swales that drain directly into ephemeral and intermittent streams is 50 feet.

~~e. The minimum separation distance in feet~~required between a manure utilization area and a public and private drinking water well is 200 feet.

~~3. Siting Requirements applicable to all manure utilization areas associated with large swine facilities with 1,000,000 pounds or more normal production live weight.~~

~~a. The minimum separation distance in feet~~required between a manure utilization area and real property owned by another person is 200 feet from the property lines.

~~b. The minimum separation distance in feet~~required between a manure utilization area and an occupied residence is 750 feet (excluding the applicant's residence).

~~e. The minimum separation distance in feet~~required between a manure utilization area and waters of the State (not including ephemeral and intermittent streams), ditches, and swales is 150 feet.

~~d. The minimum separation distance in feet~~required between a manure utilization area and a public and private drinking water well is 200 feet.

~~e. The minimum separation distance in feet required between a manure utilization area and ephemeral and intermittent streams is 100 feet.~~

42. Water (pond) that is completely surrounded by land owned by the applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

53. The Department may establish in permits additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be swine manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, aquifer vulnerability, and potential for vectors and odors.

D. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface waters of the State (including ephemeral and intermittent streams). Criteria may include but is not limited to soil permeability, clay content, depth to bedrock, rock outcroppings, aquifer vulnerability, proximity to State Approved Source Water Protection Area and depth to the seasonal high groundwater table.

E. The Department may establish permit conditions to require that swine manure and other swine by-products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on land grant universities (in the southeast) published lime and fertilizer recommendations (such as the Lime and Fertilizer Recommendations, Clemson Extension Services; Circular 476).

F. Groundwater Monitoring for Manure Utilization Areas.

1. For ~~X~~-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~, at least one (1) up-gradient and two (2) down-gradient groundwater monitoring wells shall be installed for each drainage basin intersected by the manure utilization areas. The location, design, and construction specifications for the monitoring wells shall be submitted in the application package. The information shall be reviewed and approved by the Department prior to permit issuance. The permit will contain specific requirements for sampling the groundwater monitoring wells including the frequency and parameters for sampling.

2. For small and large swine facilities ~~(500,000 pounds or less normal production live weight) and large swine facilities with less than 1,000,000 pounds normal production live weight~~, the Department may require groundwater monitoring at manure utilization areas as appropriate.

3. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include ~~depth to the seasonal high groundwater~~ groundwater depth, operation flexibility, application frequency, type of swine manure and other swine by-products, size of manure utilization area, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and loading rate.

a. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

b. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the swine manure and other swine by-products applications based on the results of this monitoring data.

c. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

G. The Department may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to any manure utilization areas.

100.110. Spray Application System Requirements.

A. Spray application of swine manure ~~utilizing~~using irrigation equipment. This includes all methods of surface spray application, including but not limited to, fixed gun application, traveling or mobile gun application, or center pivot application.

B. New X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~are prohibited from utilizing spray application systems for manure application. Manure must be incorporated into the manure utilization fields utilizing subsurface injection at a depth of not less than six inches.

C. Manure utilization area slopes shall not exceed ten (10) percent unless approved by the Department. The Department may require that slopes be less than ten (10)% percent based on site conditions.

D. Swine manure distribution systems shall be designed so that the distribution pattern optimizes uniform application.

E. Hydraulic Application Rates.

1. Application rates shall normally be based on the agronomic rate for the crop to be grown at the manure utilization area. As determined by soil conditions, the hydraulic application rate may be reduced below the agronomic rate to ensure no surface ponding, runoff, or excessive nutrient migration to the groundwater occurs.

2. The hydraulic application rate may be limited based on constituent loading including any constituent required for monitoring under this regulation.

F. Swine manure and other swine by-products shall not be ~~land applied or discharged onto a land surface~~when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

G. Conservation measures, such as terracing, strip cropping, etc., may be required in specific areas determined by the Department as necessary to prevent potential surface runoff from entering or leaving the manure utilization areas. The Department may consider alternate methods of runoff controls that may be proposed by the applicant, such as berms.

H. For swine facilities, a system for monitoring the quality of groundwater may also be required for the proposed manure utilization areas. The location of all the monitoring wells shall be approved by the Department. The number of wells, constituents to be monitored, and the frequency of monitoring shall be

determined on a case-by-case basis based upon the site conditions such as type of soils, depth of water table, aquifer vulnerability, proximity to State Approved Source Water Protection Area, etc.

I. If an adverse trend in groundwater quality is identified, further assessment and/or corrective action may be required. This may include an alteration to the permitted application rate or a cessation of manure application in the impacted area.

J. Spray application systems shall be designed and operated in such a manner to prevent drift of liquid manure onto adjacent property.

100.120. Frequency of Monitoring for Swine Manure.

A. The producer and/or integrator shall be responsible for having representative samples based on Clemson University Extension Service recommendations of the swine manure collected and analyzed at least once per year and when the feed composition significantly changes. The constituents to be monitored shall be given in the permit. The analyses shall be used to determine the amount of swine manure to be land applied. In order to ensure that the permitted application rate (normally the agronomic rate) is met, the application amount shall be determined using a rolling average of the previous analyses. The Department shall establish minimum requirements for the proper method of sampling and analyzing of swine manure. Facilities with permits that do not specify which constituents to monitor shall monitor for Ammonium-Nitrogen, Total Kjeldahl Nitrogen (TKN), Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen), P₂O₅, and K₂O.

B. The Department may require nitrogen, potassium, phosphorus, the constituents listed in Table 1 and Table 2 of Section 100.100 (Manure Utilization Area Requirements), and any other constituent contained in a permit to be monitored prior to each application.

C. Permittees do not have to analyze for any constituent they can demonstrate to the satisfaction of the Department is not present in their swine manure.

D. All monitoring shall be done in accordance with collection procedures in Standard Methods for Analysis of Water and Wastewater or other Department guidelines. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

100.130. Dead Swine Disposal Requirements.

A. Dead swine disposal shall be done as specified in the approved Animal Facility Management Plan. The Dead Swine Disposal Plan shall include the following:

1. Primary Method of ~~disposal~~ for the handling and disposal of ~~dead swine that result from~~ normal mortality on the farm.

2. Alternate Method for the handling and disposal of ~~dead swine that result from~~ excessive mortality ~~on the farm at the facility~~. The normal method of disposal may not be sufficient to handle an excessive mortality situation. Each producer ~~should~~shall have ~~an~~ a Department approved emergency or alternate method to dispose of excessive mortality. Excessive mortality burial sites shall be preapproved by the Department prior to utilization.

B. Burial. (For existing facilities permitted prior to January 2020 with a burial site approved by the Department) Facility permits issued after January 2020 or permitted facilities prior to January 2020 without

an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal.

1. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

2. Burial pits shall not be located in the 100-year floodplain.

3. Soil type shall be evaluated for leaching potential.

4. Burial pits shall not be located or utilized on sites that are in areas that may adversely ~~affected~~impact surface or groundwater quality or further impact impaired water bodies.

5. The bottom of the burial pit may not be within two (2) feet of the seasonal high groundwater ~~level~~table.

6. No burial site shall be allowed to flood with surface water.

7. Swine placed in a burial site shall be covered daily with sufficient cover (six (6) inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site shall be properly capped (minimum two (2) feet) and grassed to prohibit erosion.

9. Proposed burial pit sites shall be approved by the Department. The Department may conduct a geologic review of the proposed site prior to approval.

10. The Department may require any new or existing producers to utilize another method of dead swine disposal if burial is not managed according to the Dead Swine Disposal Plan or repeated violations of these burial requirements occur or adverse impact to surface or groundwater is determined to exist.

11. The Department may require groundwater monitoring for dead animal burial pits on a case-by-case basis. The Department shall consider all of the facts including, but not limited to, the following: depth to the seasonal high water table; aquifer vulnerability; proximity to a State Approved Source Water Protection Area; groundwater use in the area; distance to adjacent surface waters; number of dead animals buried; and frequency of burial in the area.

C. Incinerators.

1. For facilities proposing an incinerator for dead swine disposal, either a permit for the air emissions shall be obtained from the Department's Bureau of Air Quality before the incinerator can be built or the following criteria shall be met in order to qualify for an exemption from an air permit:

a. The emission of particulate matter shall be less than one (1) pound per hour at the maximum rated capacity.

b. The incinerator shall be a package incinerator ~~and have a rated capacity of 500 pounds per hour or smaller which burns virgin fuel only~~ that meets the requirements from the Department's Bureau of Air Quality (BAQ); and

c. The incinerator shall not exceed an opacity limit of ten (10)% percent.

2. Incinerators used for dead swine disposal shall be properly operated and maintained. Operation shall be as specified in the owner's manual provided with the incinerator. The owner's manual shall be kept on site and made available to Department personnel upon request.

3. The use of the incinerator to dispose of waste oil, hazardous waste, or any other waste chemical is prohibited. The use of the incinerator shall be limited to dead swine disposal only unless otherwise approved by the Department's Bureau of Air Quality.

~~D. Composters.~~ Composters used for dead swine disposal shall be designed by a professional engineer or an NRCS representative and operated in accordance with the approved Animal Facility Management Plan. Packaged composters shall be approved on a case-by-case basis.

E. Disposal of dead swine in a municipal solid waste landfill shall be in accordance with ~~Regulation R.61- 107.258~~19.

F. Disposal of swine carcasses or body parts into manure lagoons, treatment systems, storage ponds, waters of the State, ephemeral and intermittent streams, ditches, and swales is prohibited.

~~G. Other methods of dead swine disposal that are not addressed in this regulation may be proposed in the Dead Swine Disposal Plan.~~ Disposal of animal carcasses or body parts by rendering shall be approved by the Department and include a signed contract with the rendering company.

H. Other methods of dead animal disposal that are not addressed in this regulation may be proposed in the Dead Animal Disposal Plan.

100.140. Other Requirements.

A. There shall be no discharge of pollutants from the operation into surface waters of the State (including ephemeral and intermittent streams). There shall be no discharge of pollutants into groundwater, which could cause groundwater quality not to comply with the groundwater standards established in ~~South Carolina Regulation R.61-68~~.

B. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of swine manure and other swine by-products.

C. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a state approved source water protection area.

2. ~~303(d) Impaired Water bodies~~ Waterbodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or potential to adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area, an area where groundwater recharge may affect an aquifer.

D. If an adverse impact to the waters of the State, including ephemeral and intermittent streams, or groundwater from swine manure and other swine by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation R.61-68~~ or a significant adverse trend occurs, the Department may require the producer responsible for the swine manure and other swine by-products to conduct an investigation to determine the extent of impact. The Department may require the producer to remediate the water to within acceptable levels as set forth in ~~Regulation R.61-68~~.

E. No manure may be released from a swine manure lagoon, treatment system, or storage pond or the premises of a swine facility to waters of the State, ~~(including ephemeral and intermittent streams.) unless the manure is treated to water quality standards and a permit pursuant to Section 402 or 404 of the CWA has been issued by the Department.~~

F. Swine medical waste cannot be disposed into swine lagoons, treatment systems, or manure storage ponds, or land applied with swine manure and other swine by-products.

G. In the event of a discharge from a swine lagoon, treatment system, or manure storage pond, the permittee is required to notify the Department immediately, within twenty-four (24) hours of the discharge.

H. When the Department determines that an ~~nuisance~~ undesirable condition exists at a swine facility, the permittee shall take action to correct the ~~nuisance~~ undesirable condition to the degree and within the time frame designated by the Department.

I. Permittees shall maintain all-weather access roads to their facilities at all times.

~~J. The body of vehicles transporting manure shall be wholly enclosed and while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.~~

100.150. Odor Control Requirements.

A. The Animal Facility Management Plan shall contain an odor abatement plan for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas shall consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;
2. Use of treatment processes for the reduction of undesirable odor levels;
3. Additional setbacks from property lines beyond the minimum setbacks given in this part;
4. Other methods as may be appropriate; or
5. Any combination of these methods.

B. Producers shall utilize Best Management Practices normally associated with the proper operation and maintenance of a swine facility, lagoon, treatment system, manure storage pond, and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No producer may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is ~~at an undesirable level by considering the character and degree of injury or interference to:~~

- ~~1. The health or welfare of the people;~~
- ~~2. Plant, animal, freshwater aquatic, or marine life;~~
- ~~3. Property; or~~
- ~~4. Enjoyment of life or use of affected property.~~

D. ~~After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. If the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to the following:~~

E. ~~The Department may require abatement or control practices, including, but not limited to the following:~~

1. ~~Removal~~ or ~~disposal~~ of odorous materials;
2. Methods in handling and storage of odorous materials that minimize emissions;
 - a. ~~Drying~~ to a moisture content of fifty (50) percent or less;
 - b. ~~Solids S~~eparation from liquid manure, and composting of solids;
 - c. Use Disinfection to kill microorganisms present in manure;
 - d. ~~Aeration~~ of manure;
 - e. Anaerobic digestion in a sealed vessel;
 - f. ~~Composting~~ of solid manure and other swine by-products;
 - g. Utilize ~~O~~odor ~~C~~ontrol ~~A~~dditives.
3. Prescribed standards in the maintenance of premises to reduce odorous emissions;
 - a. Filtration (biofilters or other filter used to remove dust and odor) of ventilation air;
 - b. ~~Keeping~~ animals clean ~~or~~ and ~~separated~~ from manure;
 - c. Adjust number of animals confined in the pens or paddocks in accordance with Clemson University Animal Space Guidelines;
 - d. Frequent removal of manure from animal houses;

- e. Adding a layer of water in the shallow pits after the manure is removed;
 - f. Feeding areas should be kept dry, and waste feed accumulation should be minimized;
 - g. Maintaining feedlot surfaces in a dry condition (twenty-five (25)% to forty (40)% percent moisture content), with effective dust control;
 - h. Proper maintenance of the dead swine disposal system;
 - i. Covering or reducing the surface area of manure and other swine by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
 - j. Planting trees around or downwind of the manure and other swine by-products storage and treatment facilities (trees shall not be planted within twenty-five (25) feet of the toe of the dike.);
 - k. Incorporation of manure and other swine by-products immediately after land application;
 - l. Selection of appropriate times for land application.
4. Best Available Technology to reduce odorous emissions.

~~F.E.~~ Nothing in this section prohibits an individual or group of persons from bringing a complaint against a swine facility including problems at lagoons, treatment systems, manure storage ponds, and manure utilization areas.

~~G.F. If the permittee fails to control or abate the odor problems at a land application site to the satisfaction and within a time frame determined by the Department, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary to provide a sufficient amount of land for manure utilization. If the permittee fails to control or abate the odor problems at a swine facility, lagoon, treatment system, manure storage pond, and any manure utilization area to the satisfaction and within a timeframe determined by the Department, the permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary to provide a sufficient amount of land for manure utilization.~~

100.160. Vector Control Requirements.

~~A. Vector Abatement Plan.~~ The Vector Abatement Plan shall at a minimum consist of the following:

1. ~~Normal~~ Best management practices used at the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.

2. A list of specific actions to be taken by the producer if vectors are identified as a problem at the swine facility, lagoon, treatment system, manure storage pond, or any manure utilization area. These actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.

B. No producer may cause, allow, or permit vectors to breed or accumulate in quantities that result in an nuisance undesirable level, as determined by the Department.

~~C. The Department shall require remediation of the problem to the satisfaction of the Department, after determining a vector problem exists. For an existing facility, if the Department determines a vector problem exists, the Department may require these abatement or control practices, including but not limited to the following:~~

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;

2. Methods in handling and storage of materials that minimize vector attraction;

a. Remove spilled or spoiled feed from the house as soon as practicably possible not to exceed forty-eight (48) hours, unless otherwise approved by the Department;

b. Remove and properly dispose of dead animals as soon as practicably possible not to exceed twenty-four (24) hours, unless otherwise approved by the Department;

c. Increase the frequency of manure removal from animal houses;

d. Prevent solids buildup in the pit storage or on the floors or walkways;

e. Remove excess manure packs along walls and curtains;

f. Compost solid manure and other swine by-products;

g. Appropriate use of vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);

h. Utilize traps, or electrically charged devices;

i. Utilize biological agents;

j. Utilize Integrated Pest Management; and

k. Incorporate manure and other swine by-products immediately (within twenty-four (24) hours) after land application.

3. Prescribed standards in the maintenance of premises to reduce vector attraction;

a. Remove standing water that may be a breeding area for vectors;

b. Keep animals clean or separated from manure;

c. Keep facility clean and free from trash or debris;

d. Properly utilize and service bait stations;

- e. Keep feeding areas dry, and minimize waste feed accumulation;
 - f. Keep grass and weeds mowed around the facility and manure storage or treatment areas;
 - g. Maintain the dead swine disposal system;
 - h. Cover or reduce the surface area of manure and other swine by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
 - i. ~~Store feed and feed supplements properly~~ Properly store feed and feed supplements;
 - j. Conduct a weekly vector monitoring program;
 - k. Be aware of insecticide resistance problems, and rotate use of different insecticides;
 - l. Prevent and repair leaks in waterers, water troughs or cups; and
 - m. Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.
4. Utilize the Bbest available control technology to reduce vector attraction and breeding.

100.170. Record Keeping.

A. A copy of the approved Animal Facility Management Plan, including approved updates, and a copy of the permit(s) issued to the producer shall be retained by the permittee for as long as the swine facility is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. However, if the facility was permitted prior to June 26, 1998, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.

C. Records shall be developed for each manure utilization area. These records shall be kept for eight (8) years. The records shall include the following:

1. For each time swine manure and other swine by-products are applied to the site, the amount of swine manure and other swine by-products applied (in gallons per acre or pounds per acre, as appropriate), the ~~location of the site, and the date and time of manure and other swine by-products application~~ date and time of the application, and the location of the application;

2. All sampling results for swine manure that is land applied, ~~if applicable;~~

3. All soil monitoring results, ~~if applicable;~~

4. All groundwater monitoring results, if applicable; and

5. Crops grown.

D. Records for the facility to include the following on a monthly basis:

1. ~~Monthly~~ Animal count and the normal production animal live weight; and

2. Mortality count and method of disposal.

E. Records for lagoon, treatment system, or manure storage pond operations to include the following:

1. Monthly water levels of the lagoon, treatment system, and manure storage pond; and

2. Groundwater monitoring results, if applicable.

F. All records retained by the producer shall be kept at either the facility, an appropriate business office, or other location as approved by the Department.

G. All records retained by the producer shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

100.180. Reporting.

A. All large and X-large swine operations (~~greater than 500,000 pounds of normal production live weight~~) shall submit, on a form approved by the Department, the following on an annual basis or more frequently if required by a permit or regulation:

1. All manure sampling results for the last year, if applicable, and the latest rolling average concentration for the land limiting constituent;

2. All soil monitoring results, if applicable;

3. All groundwater monitoring results, if applicable;

4. Calculated application rates for all manure utilization areas; and

5. The adjusted application rates, if applicable, based on the most recent swine manure sampling, soil samples, and crop yields. The application rate change could also be due to a change in field use, crop grown, or other factors.

B. The Department may require small swine facilities (~~500,000 pounds or less of normal production live weight~~) to submit annual reports on a case-by-case basis.

C. The Department may establish permit conditions to require a swine facility to complete and submit a comprehensive report every five (5) years. The Department shall review this report to confirm that the permitted nutrient application rates have not been exceeded. Based on the results of the review, additional soil and/or groundwater monitoring requirements, permit modification, and/or corrective action may be required.

100.190. Training Requirements.

A. An owner/operator of a new or existing swine facility, lagoon, manure storage pond, or manure utilization area shall complete a training program on the operation of swine manure management created by Clemson University, i.e. (CAMM).

B. ~~Owners/Operators of new and existing largeswine facilities (greater than 500,000 pounds of normal production live weight)~~ shall be required to pass a test and become certified as a part of the training program created by Clemson University. The Department may require operators with documented violations to pass a test through Clemson's program.

C. The ~~training and/or~~ certification shall be completed by owners/operators of new facilities prior to start-up of operations.

D. The ~~training and/or~~ certification shall be completed by owners/operators of existing facilities within two (2) years of the effective date of this regulation. The certification program shall be completed by owners/operators involved in a transfer of ownership within one (1) year of the transfer of ownership approval.

E. ~~Training and/or~~ The certification shall be maintained as long as the facility remains in operation.

F. Failure to obtain the ~~training and~~ certification as provided in this Section shall be deemed a violation of this ~~R~~regulation.

G. Additional Training and Certification Requirements for X-Large Swine Facilities~~with 1,000,000 pounds or greater normal production live weight.~~

1. The Department shall classify all manure treatment systems serving X-large swine facilities, giving due regard to size, types of work, character, and volume of manure to be treated, and the use and nature of the land resources receiving the manure.

2. Manure treatment systems may be classified in a group higher than indicated at the discretion of the Department by reason of the following:

a. Incorporation in the treatment system of complex features which cause the treatment system to be more difficult to operate than usual; or

b. A waste stream that is unusually difficult to treat; or

c. Conditions of flow; or

d. Use of the receiving lands requiring an unusually high degree of system operation control; or

e. Combinations of such conditions or circumstances.

3. The classifications for biological treatment systems are based on the following groups:

a. Group I - B. All agricultural manure treatment systems which include one (1) or more of the following units: primary settling, chlorination, sludge removal, imhoff tanks, sand filters, sludge drying beds, land spraying, grinding, screening, oxidation, and stabilization ponds.

b. Group II - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Group I-B and, in addition, one (1) or more of the following units: sludge digestion, aerated lagoon, and sludge thickeners.

c. Group III - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-B and II-B and, in addition, one (1) or more of the following: trickling filters,

secondary settling, chemical treatment, vacuum filters, sludge elutriation, sludge incinerator, wet oxidation process, contact aeration, and activated sludge (either conventional, modified, or high rate processes).

d. Group IV - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-B, II-B, and III-B and, in addition, treat manure having a raw five (5)-day biochemical oxygen demand of ~~five thousand~~ 5,000 pounds a per day or more.

4. The classifications for physical chemical manure treatment systems are based on the following groups:

a. Group I-P/C. All agricultural manure treatment systems which include one (1) or more of the following units: primary settling, equalization, pH control, and oil skimming.

b. Group II-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Group I-P/C and, in addition, one (1) or more of the following units: sludge storage, dissolved air flotation, and clarification.

c. Group III-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-P/C and II-P/C and, in addition, one (1) or more of the following: oxidation/reduction reactions, cyanide destruction, metals precipitation, sludge dewatering, and air stripping.

d. Group IV-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-P/C, II-P/C and III-P/C and, in addition, one (1) or more of the following: membrane technology, ion exchange, tertiary chemicals, and electrochemistry.

5. It shall be unlawful for any person or corporation to operate an agricultural manure treatment system at a ~~an X-large swine facility with 1,000,000 pounds or more normal production live weight~~ unless the operator-in-charge holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the agricultural manure treatment system supervised by him or her.

100.200. Violations.

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

B. ~~X-Large swine facilities with 1,000,000 pounds or more normal production live weight~~ shall be assessed automatic penalties (up to \$10,000 per day per violation) for the following violations:

1. Lagoon, treatment system or manure storage pond breach, or loss of containment that is not the direct result of an Act of God.

2. Manure Utilization Area runoff due to improper manure application methods.

3. Discharge to groundwater on site causing groundwater to exceed any water quality standard established in ~~Regulation~~ R.61-68.

C. Second occurrence of any of the violations outlined in 100.21000.B. at ~~an~~ **X**-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ shall result in immediate revocation of the permit and the automatic assessment of appropriate penalties.

D. Immediate cessation of manure application will also be enforced on sites where groundwater quality is adversely affected.

E. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Department to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 and 48-1-330 of the Code.

PART 200 ANIMAL FACILITIES (OTHER THAN SWINE)

- ~~200.10. Purpose, Applicability, Inactive Facilities and Facilities Permitted Prior to the Effective Date of Regulation.~~
- ~~200.20. Permits and Compliance Period.~~
- ~~200.30. Exclusions.~~
- ~~200.40. Relationship to Other Regulations.~~
- ~~200.50. Permit Application Requirements (Animal Facility Management Plan Submission Requirements).~~
- ~~200.60. Public Notice Requirements.~~
- ~~200.70. Permit Decision Making Process.~~
- ~~200.80. Facility, Lagoon, Treatment Systems, and Manure Storage Pond Siting Requirements.~~
- ~~200.90. General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds.~~
- ~~200.100. Manure Utilization Area Requirements.~~
- ~~200.110. Spray Application System Requirements.~~
- ~~200.120. Frequency of Monitoring for Animal Manure.~~
- ~~200.130. Dead Animal Disposal Requirements.~~
- ~~200.140. Other Requirements.~~
- ~~200.150. Odor Control Requirements.~~
- ~~200.160. Vector Control Requirements.~~
- ~~200.170. Record Keeping.~~
- ~~200.180. Reporting.~~
- ~~200.190. Training Requirements.~~
- ~~200.200. Violations.~~

200.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to Effective Date of the Regulation.

A. Purpose.

1. To establish standards for the growing or confining of animals, processing of animal manure and other animal by-products, and land application of animal manure and other animal by-products in such a manner as to protect the environment, and the health and welfare of citizens of ~~T~~the State from pollutants generated by this process.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the utilization of animal manure and other animal by-products

generated at animal facilities. Standards included in this part are for animal manure and other animal by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for producers who operate animal facilities.

4. To establish standards for the proper operation and maintenance of animal facilities.

5. To establish criteria for animal facilities and manure utilization areas location as they relate to protection of the environment and public health. The location of animal facilities and manure utilization areas as they relate to zoning in an area is not covered in this regulation. Local county or municipal governments may have zoning requirements and these regulations neither interfere with nor restrict such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

B. Applicability.

1. This part applies to:

a. All new animal facilities;

b. All expansions of existing animal facilities; ~~and~~

c. New manure utilization areas for existing animal facilities;

d. All inactive facilities; and

e. All facilities and lagoon closures.

2. This part applies to all animal manure and other animal by-products applied to the land.

3. This part applies to all land where animal manure and other animal by-products are applied.

C. Inactive Facilities.

1. If an animal facility is ~~closed~~inactive for two (2) years or less, a producer may ~~renew~~resume operations of the facility under the same conditions by which it was previously permitted by notifying the Department in writing that the facility is being operated again.

2. For animal facilities that have been ~~closed~~inactive for more than two (2) years but less than five (5) years, the Department shall review the existing permit and modify its operating conditions as necessary prior to the facility being placed back into operation.

3. For all other than swine animal facilities that have been ~~closed~~inactive for five (5) or more years, the producer shall properly close out any lagoon, treatment system or manure storage pond associated with the facility. The closeout shall be accomplished in accordance with ~~Regulation R. 61-82~~. The permittee shall submit a closeout plan that meets at a minimum NRCS-CPS within a time frame prescribed by the Department. Additional time may be granted by the Department to comply with the closeout requirement or to allow the producer to apply for a new permit under this regulation, as appropriate.

~~4. If an animal facility closes for more than five years, the requirements under this part shall be met before the facility can renew operations. If an animal facility is inactive for more than five (5) years, the permit is considered expired and the producer shall apply for a new permit and all requirements of R.61-43 shall be met before the facility can resume operations. During the closeout of the facilities and/or lagoons/waste storage ponds, annual fees are required until proper closeout is certified and approved.~~

D. Facilities Permitted Prior to the Effective Date of the Regulation.

1. All existing animal facilities with permits issued by the Department before June 28~~6~~², 1998~~2~~, do not need to apply for a new permit as they are deemed permitted (deemed permitted animal facilities) unless they have been ~~closed~~ inactive for more than two (2) years or expand operations. These facilities shall meet the following sections of Part 200: Section 200.20 (Permits and Compliance Period), Section 200.90.A., D., and J. - O. (General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds), Section 200.100.B.1.-~~22~~²³. (Manure Utilization Area Requirements), Section 200.110.H.-I. (Spray Application System Requirements), Section 200.120.A., C.-D. (Frequency of Monitoring for Animal Manure), Section 200.130.A.,B., and C.2.-3. (Dead Animal Disposal Requirements), Section 200.140.A., C.-I. (Other Requirements), Section 200.150.B.-F. (Odor Control Requirements), Section 200.160.B.-~~DC~~. (Vector Control Requirements), Section 200.170 (Record Keeping), Section 200.180 (Reporting), Section 200.190 (Training Requirements), and Section 200.200 (Violations). The capacity of a deemed permitted facility that does not have a lagoon is the number of animals and normal production-animal live weight permitted by the Department prior to the effective date of these regulations. For deemed permitted facilities with lagoons, the capacity is the maximum capacity of the existing animal manure lagoon, treatment system, and animal manure storage pond as determined using the appropriate animal manure lagoon, treatment system, and animal manure storage pond capacity design criteria of the United States Department of Agriculture's Natural Resource Conservation Service.

2. All existing animal facilities with permits issued by the Department between June 26, 1998~~2~~ and the effective date of these regulations do not need to apply for a new permit if they hold a valid permit from the Department, unless they have been ~~closed~~ inactive for more than two (2) years. These facilities shall meet all the requirements of these regulations.

3. All existing animal facilities that were constructed and placed into operation prior to June 26, 1998, but have never received an agricultural permit from the Department, shall apply for a permit from the Department. This facility shall meet all the requirements of this regulation as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

4. An existing animal facility may be required to ~~obtain~~ submit an updated Animal Facility Management Plan on a case-by-case basis by the Department. The Department shall notify the permittee in writing of this requirement. The permittee has six (6) months or an agreed upon timeframe from the date of notification to submit an updated Animal Facility Management Plan. Failure to submit the updated plan within this time frame is a violation of the Pollution Control Act and these regulations, and may result in permit revocation.

5. Both the setbacks and other requirements for manure utilization areas shall be met when a new manure utilization (MUA) area is added by the owner of any animal facility regardless of when the facility was permitted.

6. If an existing animal facility regulated under this part proposes to convert to a swine facility, it shall be considered a new swine facility under these regulations. Converted facilities shall be permitted as new swine facilities and meet all criteria for new swine facilities before they begin operation as a swine facility.

200.20. Permits and Compliance Period.

A. Permit Requirement. Animal manure and other animal by-products from a new or expanded animal facility can only be generated, handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department under the provisions of this part. Existing producers that are required by the Department to update their Animal Facility Management Plan shall meet the requirements of this part to the extent practical as determined by the Department.

B. Permits issued under this regulation are no-discharge permits.

C. The requirements in this part shall be implemented through a permit issued to any producer who operates an animal facility where animal manure and other animal by-products are ~~produced, processed, or disposed~~ generated, handled, treated, stored, processed, or land applied.

D. The requirements under this part may be addressed in permits issued to producers who only land apply animal manure and other animal by-products.

E. Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, except ~~where noted~~ as otherwise noted, prior to any change in ~~operational~~ procedures at a permitted facility, including, but not limited to, the following:

1. Change in ownership and control of the facility. The Department has thirty (30) days from the receipt of a complete and accurate notification of transfer of ownership to either: request additional information regarding the transfer or the new owner; deny the transfer; or approve the transfer of ownership. If the Department does not act within thirty (30) days, the transfer is automatically approved. If additional information is requested by the Department in a timely manner, the Department shall act on this additional information, when it is received, within the same time period as the initial notification.

2. Increase in the permitted number of animals.

3. Addition of manure utilization areas.

4. Change in animal manure and other animal by-products treatment, handling, storage, processing, or utilization.

5. Change in method of dead animal disposal.

F. ~~Permit Modification~~. Permit modifications for items 200.20.E.2 and 200.20.E.4 for facilities regulated under this part which will result in expansions shall adhere to the requirements of this part and other applicable statutes, regulations, or guidelines.

G. Permit modification for items 200.20.E.2 which result in an expansion may be required to obtain new written waivers or agreement for reduction of setbacks from adjoining property owners (if applicable).

200.30. Exclusions.

The following do not require permits from this part unless specifically required by the Department under item 200.30.G.

A. Existing animal facilities that are deemed permitted under Section 200.10.D.1 are excluded from applying for a new permit unless an expansion is proposed, new manure utilization areas are added, or as required by the Department. However, deemed permitted facilities shall meet the requirements of this regulation as outlined in Section 200.10.D (Purpose, Applicability, Inactive Facilities and Facilities Permitted Prior to the Effective Date of Regulation).

B. Except as given in Section 200.30.G, animal facilities with only ranged animals and no lagoon, treatment system, or manure storage pond is associated with the facility are excluded from obtaining a permit from the Department. The range area shall be of sufficient size to allow for natural degradation or utilization of the animal manure with no adverse impact to the environment. Ranged facilities shall also maintain adequate vegetative buffers between the animal range and waters of the State.

C. Except as given in Section 200.30.G, animal facilities, that do not have a lagoon, manure storage pond, or liquid manure treatment system, having 10,000 pounds or less of normal production animal live weight at any one time are excluded from obtaining a permit from the Department, ~~but~~ However, these facilities shall have and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

D. Except as given in Section 200.30.G, animal facilities, that do not have a lagoon, manure storage pond, or liquid manure treatment system, having more than 10,000 pounds of normal production animal live weight at any one time and having less than 30,000 pounds of normal production animal live weight at any one time are excluded from obtaining a permit from the Department. However, these facilities shall submit an Animal Facility Management Plan to the Department and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

E. Except as given in Section 200.30.G, animal facilities that are not classified as commercial facilities are excluded from obtaining a permit from the Department.

F. Except as given in Section 200.30.G, animal facilities that hold valid permits issued by the Department are not required to obtain a new permit if they decide to replace in kind any of the animal growing houses. ~~If the permittee chooses to leave the old houses in place to utilize for another purpose other than housing animals, the Department shall perform a preliminary site inspection for the proposed location of the replacement houses and approve the site prior to construction.~~

G. Animal facilities exempted under Sections 200.30.A, B, C, D, E, and F may be required by the Department to obtain a permit. The Department shall visit the site before requiring any of these facilities to obtain a permit.

200.40. Relationship to Other Regulations.

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~B.~~ A. Application and annual operating fees are addressed in ~~Regulation R.61-30.~~ Regulation R.61-30.

~~C.~~ B. The proper closeouts of wastewater treatment facilities are addressed in ~~Regulation R.61-82.~~ Regulation R.61-82. This includes animal lagoons and manure storage ponds.

~~D. Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.~~

~~EC.~~ Setbacks and construction specifications for potable water wells and monitoring wells shall be in accordance with ~~Regulation R.61-71.~~

~~FD.~~ Permits for air emissions from incinerators are ~~contained~~ addressed in ~~Regulation R.61-62.~~

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in ~~Regulation R.61-107.25819.~~

~~HF.~~ Disposal of animal manure with domestic or industrial sludge is addressed in ~~Regulation R.61-9 and permitted under R.61-9.~~

~~I. Procedures for contested cases are addressed in Regulation 61-72 and the Rules of the State's Administrative Law Judge Division.~~

~~JG.~~ Laboratory Certification is addressed in ~~Regulation R.61-81.~~

~~KH.~~ Water Classifications and Standards are addressed in ~~Regulation R.61-68.~~

200.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for preliminary site inspection shall be made using a form, as designated by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan. Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new animal facility or expand an existing animal facility shall make application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed and accurate application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service personnel or a S.C. registered professional engineer (PE). Other qualified individuals, such as certified soil scientists, SC registered professional geologists (PG), etc., may prepare the land application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall at a minimum contain:

a. Facility name, address, telephone numbers, email address (if applicable), county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning or land use restrictions in this area (this information is available from the county);

c. Applicant's name, address, and telephone number (if different from above);

- d. Operator's name and CAMM number;
- e. Facility capacity;
 - i. Number and type of animals;
 - ii. Pounds of normal production animal live weight at any one time;
 - iii. Amount of animal manure and other animal by-products generated per year (gallons for liquid animal manure and pounds for dry animal manure);
 - iv. Amount in tons of any scraped or separated solid animal manure and other animal by-products generated per year (if applicable);
 - v. Description of animal manure and other animal by-products storage and storage capacity of lagoon, treatment system or manure storage pond (if applicable); and
 - vi. Description of animal manure and other animal by-products treatment (if any).
- f. Concentration of constituents in liquid animal manure including but not limited to the constituents given below:
 - i. Nutrients.
 - (a) Nitrate (only needed for aerobic systems).
 - (b) Ammonium-Nitrogen.
 - (c) Total Kjeldahl Nitrogen (TKN).
 - (d) Organic-Nitrogen (TKN - Ammonium-Nitrogen).
 - (e) P_2O_5 .
 - (f) K_2O (potash).
 - ii. Constituents.
 - (a) Arsenic.
 - (b) Copper.
 - (c) Zinc.
 - iii. Name, address, SC lab certification number, and telephone number of the laboratory conducting the analyses.
 - iv. For new animal facilities, liquid animal manure analysis information does not have to be submitted as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document,

NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual animal manure generated shall be submitted to the Department twelve (12) months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Concentration of constituents in dry animal manure including but not limited to the following:

i. Nutrients (on a dry weight basis).

(a) Total Kjeldahl Nitrogen (mg/kg).

(b) Total inorganic nitrogen (mg/kg).

(c) Total ammonia nitrogen (mg/kg) and Total nitrate, nitrogen (mg/kg).

(d) P₂O₅ (mg/kg).

(e) K₂O (mg/kg).

(f) Calcium Carbonate equivalency (if animal manure is alkaline stabilized).

ii. Constituents (on a dry weight basis).

(a) Arsenic (mg/kg).

(b) Copper (mg/kg).

(c) Zinc (mg/kg).

iii. Name, address, S₂C₂ lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new animal facilities, dry animal manure analysis information does not have to be submitted as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual dry animal manure generated shall be submitted to the Department twelve (12) months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area ~~which ever~~ ,whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

h. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the animal manure application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, and telephone number of the producer(s) that will land apply the animal manure and other animal by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the animal manure and other animal by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

i. Facility and manure utilization area information shall be included (as appropriate):

i. Name and address and tax map number of landowner and location of manure utilization area(s);

ii. List previous calendar years that animal manure and other animal by-products ~~was~~were applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.5' or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on the applicant's property and within 200 feet of the facility's property line or within 200 feet of any manure utilization areas;

(d) Adjacent surface water bodies (including ephemeral and intermittent streams);

(e) Animal manure utilization area boundaries and buffer zones;

(f) Right-of-Ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soils maps, a description of soil types, and boring locations (if applicable);

(h) Recorded Plats, Surveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year and 500-year floodplain (as determined by FEMA).

vi. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name, farm address, CAMM number, and county in which the farm is located;

(b) Landowner's name, address, phone number;

(c) Location (map with road names, tax map numbers, and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and any manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan; and

(h) A signed statement which informs the landowner that he or she is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and ~~Regulation~~ R.61-43.

~~v. For other manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan.~~

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 200.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the animal facility, lagoon, treatment system, ~~or~~ manure storage pond, and manure utilization areas. For more specific details see Section 200.160 (Vector Control Requirements).

6. The Dead Animal Disposal Plan. ~~The plan~~ shall include written details for handling and disposal of dead animals. Plans should detail method of disposal, any construction specifications necessary, and management practices. See Section 200.130 (Dead Animal Disposal Requirements) for specific requirements on dead animal disposal.

7. A Soil Monitoring Plan. ~~A soil monitoring plan~~ shall be developed for all manure utilization areas. See Section 200.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All "Notice of Intent to Build or Expand an Animal Facility" forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings. See Section 200.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan should at a minimum contain a list of entities or agencies the producer ~~should~~shall contact in the event of lagoon, treatment system, or manure storage pond breach, ~~major mass~~ animal mortality, fire, flood, or other similar type problem. For facilities in the coastal areas of the state, the emergency plan should address actions to be taken by a producer during hurricane season (such as providing additional freeboard during that time) and when advance warning is given on any extreme weather condition.

11. ~~Adjoining property owners written agreement for reduction of setbacks (if applicable)~~ All waivers as specified in Section 200.80 (Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements), if applicable.

12. Application fee and first year's operating fee as established by ~~Regulation~~R.61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the animal facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications only need to contain the information applicable to the requested modification or any additional information the Department deems necessary.

200.60. Public Notice Requirements.

A. For new animal facilities, the applicant shall notify all property owners within 1,320 feet of the proposed location of the facility (footprint of construction) of the applicant's intent to build an animal facility. The applicant shall use a notice of intent form provided by the Department. The Department shall post the Public Notice of application received on the Department's website for fifteen (15) business days. The Department ~~shall~~ may also post up to four (4) notices, in the four (4) cardinal directions ~~on~~around the perimeter of the property or in close proximity to the property, in locations visible to the public within the public right of ways ~~to the public~~ determined by the Department. The notice of intent on the Department's website shall advise adjoining property owners that they can send comments on the proposed animal facility directly to the Department.

B. For properties that have multiple owners or properties that are in an estate with multiple heirs, the Department, ~~at the expense of the applicant,~~ shall publish a notice of intent to construct an animal facility ~~in a local paper of general circulation in the area of the facility~~ on the Department's website. This notice ~~in the newspaper~~ on the Department's website shall serve as notice to these multiple property owners of the producer's intent to build an animal facility. ~~The cost to run this notice is not included in the application fee, and therefore shall be billed directly to the permit applicant for payment. This notice fee shall be paid prior to the issuance of the permit.~~

C. For existing animal facilities seeking to expand their current operations, the Department shall post the Public Notice of application received on the Department's website for fifteen (15) business days. The Department may also post up to four (4) notices in the four (4) cardinal directions ~~on~~around the perimeter of the property or in close proximity to the property, in locations visible to the public right of way ~~or~~ as determined by the Department.

D. The Department shall review all comments received. If the Department receives twenty (20) or more letters from different people ~~“Affected Persons”~~ requesting a meeting or the Department determines significant comment exists, a meeting shall be held to discuss and seek resolution to the concerns prior to a permit decision being made. All persons who have submitted written comments shall be invited in writing to the meeting. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the meeting invitation. However, if the Department determines that the number of persons who submitted written comments is significant, the Department shall publish a notice of the public meeting ~~in a local newspaper of general circulation in the area of the facility~~ on the Department’s website instead of notifying each individual by ~~First eClass mail or email~~. In addition, the Department shall notify all group leaders and petition organizers in writing. Agreement of the parties is not required for the Department to make a permit decision.

E. When comments are received by ~~electronic mail~~ email, the Department shall acknowledge receipt of the comment by ~~electronic mail~~ email. These comments shall be handled in the same manner as written comments received by postal mail.

F. The Department shall consider all relevant comments received in determining a permit decision.

G. The Department shall give notice of the permit decision to issue or deny the permit to the applicant, all persons who commented in writing to the Department, and all persons who attended the meeting, if held. First Class US mail service or email shall be used by the Department for the notice of decision. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all group leaders and petition organizers in writing. The Department shall ask these leaders and organizers to notify their groups or any concerned citizens who signed the petitions.

H. For permit issuances, the Department shall publish a notice of issuance of a permit to construct or expand an animal facility ~~in a local newspaper of general circulation in the area of the facility~~ on the Department’s website.

I. For permit denials, the Department shall give the permit applicant a written explanation, which outlines the specific reasons for the permit denial.

J. For permit denials, the Department shall publish a notice of decision ~~in a local newspaper of general circulation in the area of the facility~~ or send each concerned citizen who submitted written comments a letter by first class mail. on the Department’s website.

K. The Department shall include, at a minimum, the following information in the public notices on permit decisions: the name and location of the facility; a description of the operation and the method of manure handling; instructions on how to appeal the Department’s decision; the time frame for filing an appeal; the date of the decision; and the date upon which the permit becomes effective.

200.70. Permit Decision Making Process.

A. No permit shall be issued before the Department receives a complete application ~~for a permit~~ package.

B. The agricultural program of the Department is not involved in local zoning and land use planning. Local government(s) may have more stringent requirements for agricultural animal facilities. The permittee is responsible for contacting the appropriate local government(s) to ensure that the proposed facility meets all the local requirements.

C. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Animal Facility Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

D. A preliminary site inspection shall be made by the Department before ~~a permit decision is made~~
complete application package is received by the Department.

E. The Department shall act on all permits to prevent, so far as reasonably possible considering relevant standards under state and federal laws, an increase in pollution of the waters and air of the State from any new or enlarged sources.

F. The setback limits given in ~~this part~~Part 200 are ~~minimum~~siting requirements~~(with exception to those that are not labeled as minimum requirements, which are absolutes).~~On a case-by-case basis the Department may require additional separation distances applicable to animal facilities, lagoons, treatment systems, manure storage ponds, and manure utilization areas. The Department shall evaluate the ~~proposed site including, but not limited to, the following factors when determining to determine~~ if additional distances any special conditions are necessary:

1. ~~Proximity to 100-year floodplain~~ Latitude and Longitude;
2. ~~Geography and soil types on the site;~~ Down-wind Receptors; and
3. ~~Location in a watershed;~~ Nutrient Management Plan.
4. ~~Classification or impairment of adjacent waters;~~
5. ~~Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately owned wildlife refuge, park, or trust property;~~
6. ~~Proximity to other known point source discharges and potential nonpoint sources;~~
7. ~~Slope of the land;~~
8. ~~Animal manure application method and aerosols;~~
9. ~~Runoff prevention;~~
10. ~~Adjacent groundwater usage;~~
11. ~~Down-wind receptors; and~~
12. ~~Aquifer vulnerability.~~

G. ~~The appeal of a permit decision is governed by the SC Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Division.~~

~~HG.~~ When a permit is issued it shall contain an issue date, an effective date, and, when applicable, a construction expiration date. The effective date shall be at least ~~twenty (20)~~ fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit shall be effective on the effective date.

~~I.~~ The permit may contain a permit expiration date. If a facility is classified as a CAFO under the NPDES Regulation 61-9, the expiration date shall be no more than five years after the issue date.

~~JH.~~ An expired permit (final expiration date for renewal) issued under this part continues in effect until a new permit is effective if the permittee submits a complete application, to the satisfaction of the Department, at least 180 days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two (2) consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing within thirty (30) days of when they go out of business.

~~KI.~~ The animal facility, lagoon, treatment system, or manure storage pond can be built only when the permit is effective with no appeals pending. The facility cannot be placed into operation until the Department ~~grants written authorization to begin operations~~ has issued a written Approval to Operate (ATO).

~~LJ.~~ To receive ~~authorization to begin operations~~ an ATO, the producer shall have the preparer of the Animal Facility Management Plan submit to the Department written certification that the construction has been completed in accordance with the approved Animal Facility Management Plan and the requirements of this regulation.

~~MK.~~ The Department ~~may~~ shall conduct a final inspection before granting ~~authorization~~ an ATO to a producer to begin operations.

~~NL.~~ The Department shall grant written ~~authorization~~ approval for the producer to begin operations after it has received the certification statement in 200.70.L and the results of the final inspection, ~~if conducted,~~ are satisfactory.

~~OM.~~ Animal Facility Construction Permit Expiration and Extensions.

1. Construction permits issued by the Department for agricultural animal facilities shall be given two (2) years from the effective date of the permit to start construction and three (3) years from the effective date of the permit to complete construction.

2. If the proposed construction ~~proposed under as outlined in~~ the permit is not started prior to the construction start expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

3. If construction is not completed and the facility is not placed into operation prior to the construction completion expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

4. If a portion of the permitted facility (some of the animal growing houses) are completely constructed, but not all houses originally permitted were constructed) is completed prior to the construction completion expiration date, the construction for the remainder of the permit may be utilized within the permit life. The

permittee shall obtain Departmental approval prior to utilizing the permit in this manner. The Department may require that the permittee submit additional information or update the Animal Facility Management Plan prior to approval.

5. Extensions of the permit construction start and completion expiration dates may be granted by the Department. The permittee shall submit a written request explaining the delay and detailing any changes to the proposed construction. This request shall be received not later than ~~40 days prior to the~~ expiration date that the permittee proposes to extend. The maximum extension period shall not exceed one (1) year. There shall be no more than two (2), one (1)-year extensions periods per permit to construct, granted.

200.80. Animal Facility, Lagoon, Treatment Systems and Manure Storage Pond Siting Requirements.

A. Siting requirements applicable to all animal facilities.

1. The minimum separation distance between an animal facility (animal growing areas, houses, pens or barns, not including range areas or manure utilization areas) and a public or private drinking water well (excluding the applicant's well) is 200 feet. The minimum separation distance between an animal facility and a potable water well owned by the applicant is 50 feet (as required by R.61-71).

2. The minimum separation distance between an animal facility and waters of the State (including ephemeral and intermittent streams) located down slope from the facility is 100 feet. ~~The setbacks required from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

3. Except for site drainage, the minimum separation distance required between an animal facility and a ditch or swale located down slope from the facility is 50 feet. ~~The setbacks required from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

4. A new animal facility or an expansion of an established animal facility shall not be located in the 100-year floodplain.

5. The separation distance required between ~~the a small~~ a small animal facility or growing areas (pens or barns not including range areas) and the lot line of real property owned by another person is 200 feet ~~or and~~ and 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is 500,000 pounds or less.~~

6. The separation distance required between ~~the a large or X-large~~ a large or X-large animal facilities or growing areas (pens or barns not including range areas) and the lot line of real property owned by another person is 400 feet ~~or and~~ and 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is greater than 500,000 pounds.~~

B. Siting requirements applicable to all animal lagoons, treatment systems, and manure storage ponds.

1. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a public or private drinking water well (excluding the applicant's well) is 200 feet. The minimum separation distance between an animal lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.

2. ~~The minimum separation distance between an animal lagoon, treatment system, or manure storage pond and ephemeral and intermittent streams located down slope from the facility is 100 feet. The setback~~

~~from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~32. Except for site drainage, the minimum separation distance required between an animal lagoon, treatment system, or manure storage pond and a ditch or swale located down slope from the facility is 50 feet. The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~43. The minimum separation distance required between an animal lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) located down slope from the facility is 100 feet. If the waters of the State are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and waters of the State is 500 feet.~~

~~54. A new animal lagoon, treatment system, or manure storage pond or an expansion of an established animal lagoon, treatment system, or manure storage pond shall not be located in the 100-year floodplain.~~

~~65. The separation distance required between a small animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 300 feet ~~or~~ and 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is 500,000 pounds or less.~~~~

~~76. The separation distance required between a large animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 500 feet ~~or~~ and 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is greater than 500,000 pounds.~~~~

~~7. The separation distance required between an X-large animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 600 feet and 1,320 feet from the nearest residence.~~

C. Siting requirements applicable to all dry animal manure and other animal by products treatment or storage facilities (including, but not limited to, stacking sheds, burial sites, incinerators, and manure ~~and~~ and dead animal composters).

1. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and a public or private drinking water well (excluding the applicant's well) is 100 feet. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and a potable water well owned by the applicant is 50 feet.

2. Except for site drainage, the minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility and a ditch or swale located down slope from the facility is 50 feet. ~~The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

3. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and waters of the State including ephemeral and intermittent streams located down slope from the facility is 100 feet. ~~The setback from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

4. A new dry animal manure and other animal by-products treatment or storage facility or an expansion of an established dry animal manure and other animal by-products treatment or storage facility shall not be located in the 100-year floodplain.

5. The separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated at an animal growing facility and the lot line of real property and a residence owned by another person shall be equivalent to the setback required for the animal growing areas or houses.

6. The minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated by a manure broker and the lot line of real property owned by another person is 200 feet and 1,000 feet to the nearest residence. ~~However, the Department shall evaluate each proposed site to consider increasing this minimum amount distances, when the amount of manure stored, treated or processed at this facility is significant.~~

D. Water (a pond) that is completely surrounded by land owned by the permit applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

E. All lagoon and manure storage pond setbacks contained in this part shall be measured from the outside toe of the dike.

~~F. The setback limits given in this part are minimum siting requirements, except those not labeled as minimum requirements, which are absolutes. On a case by case basis the Department may require additional separation distances for the minimum setbacks applicable to animal facilities. See Section 200.70.F. (Permit Decision Making Process), which outlines some of the factors considered to determine if additional setbacks should be required.~~

~~G.~~ The separation distances for property lines given in Section 200.80.A, B, and C above can be waived or reduced by written consent of the adjoining property owner. Written consent is not needed when the Department reduces the distances under the requirements of Part 300.

~~H. The separation distances to the property lines of adjacent land as provided in Section 200.80.A, B and C above do not apply to an animal facility, lagoon, treatment system, or manure storage pond which is constructed or expanded, if the adjoining land is owned and managed by a professional silvicultural corporation, is currently in agricultural crop production, or is zoned for agricultural land use. However, the separation distances for residences shall be met by the animal facility, lagoon, treatment system, or manure storage pond, unless a written waiver from the property owner has been obtained.~~

200.90. General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds.

A. The lagoon, treatment system, or manure storage pond shall be designed by a professional engineer or an NRCS engineer and the construction shall be certified by the design engineer or professional engineer licensed in S.C. It is a violation of these regulations and the Pollution Control Act for the owner or operator of the facility to make modifications or physical changes to the lagoon, treatment system, or manure storage pond without the prior approval of the Department and supervision of NRCS or a professional engineer. Plans and specifications for lagoon, treatment system, or manure storage pond modifications shall be designed and certified by NRCS or a professional engineer and submitted to the Department for approval prior to the modification.

~~B. Animal manure lagoons and manure storage ponds shall be designed at a minimum to NRCS-CPS. The lagoon or manure storage pond shall be designed to provide a minimum storage for manure, wastewater, normal precipitation less evaporation, normal runoff, residual solids accumulation, capacity for the 25 fifty (50) year twenty four (24) hour storm event (precipitation and associated runoff) and at least one and one half (1 ½) two (2) feet of freeboard.~~ Animal manure lagoons and manure storage ponds shall be designed at a minimum to NRCS-CPS. The lagoon or manure storage pond shall be designed to provide a minimum storage for manure, wastewater, normal precipitation less evaporation, normal runoff, residual solids accumulation, capacity for the twenty-five (25) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least one and one half (1 ½) feet of freeboard. New X-large facilities shall be designed to provide storage capacity for all the above mentioned items including the fifty (50) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least two (2) feet of freeboard.

C. All lagoons and storage ponds shall be provided with a liner, designed with an initial specific discharge rate of less than 0.0156 feet/day in order to protect groundwater quality. When lagoons or manure storage ponds are lined only using soils with low permeability rates (e.g., clay), the Department shall require appropriate documentation to demonstrate that the computed soil permeability rates of the liner are sufficiently low or certification from the preparer of the Animal Facility Management Plan that the NRCS design standards for lining lagoons and/or manure storage ponds with soils have been met. When geomembrane liners are utilized, they shall be designed, at a minimum, to meet NRCS-CPS.

D. If seepage results in either an adverse impact to groundwater or a significant adverse trend in groundwater quality occurs as determined by the Department, the lagoon or manure storage pond shall be repaired at the owner's or operator's expense. Assessment and/or additional monitoring (more wells, additional constituents, and/or increased sampling frequency) may be required by the Department to further assess the extent of the seepage. The repairs and/or assessment shall be completed in accordance with an implementation schedule approved by the Department. The Department may require groundwater corrective action.

E. Manure shall not be placed directly in or allowed to come into contact with groundwater and/or surface water. The minimum separation distance between the lowest point of the lagoon or manure storage pond and the seasonal high water table beneath the lagoon or manure storage pond is two (2) feet. If a geomembrane liner is installed, the minimum separation distance is one foot from the seasonal high water table. Designs that include controlled drainage for water table adjustment shall be evaluated by the Department on a case-by-case basis, and may include additional monitoring and groundwater control requirements. If a design is proposed for water table adjustment, the design shall not impact wetlands.

F. Monitoring wells may be required by the Department on a case-by-case basis upon Department review of the submittal package.

G. A groundwater monitoring plan shall be submitted with the permit application to the Department. All applicable State certification requirements regarding well installation, laboratory analyses and report preparation shall be met. Each groundwater monitoring well installed shall be permitted and shall be sampled at least once annually by qualified personnel at the expense of the permittee. The results shall be submitted to the Department in accordance with the specified permit requirements. Groundwater Sampling results shall be maintained by the producer for eight (8) years. The Department may conduct routine and random visits to the animal facility to sample the monitoring wells.

H. Prior to operation of the lagoon or manure storage pond, all monitoring wells shall be sampled in accordance with the parameters identified in the permit such that a background concentration level can be established.

I. Before the construction of a lagoon and/or a manure storage pond, the owner or operator shall remove all under-drains that exist from previous agricultural operations that are under the lagoon or manure storage pond and/or within twenty-five (25) feet of the outside toe of the proposed lagoon or manure storage pond dike. This requirement does not include under-drains that are approved as a part of designs that include controlled drainage for water table adjustment.

J. Proper water levels in lagoons and manure storage ponds, as per plans and specifications, shall be maintained at all times by the permittee. The Department may require specific lagoon or manure storage pond volume requirements in permits. An approved marker shall be installed to measure water levels.

K. If a lagoon, treatment system, or manure storage pond, or both, breaches or fails ~~in any way~~, the owner or operator of the animal facility shall immediately notify the Department, the appropriate local government officials, and the owners or operators of any potable surface water treatment plant located downstream from the animal facility that could reasonably be expected to be adversely impacted.

L. Lagoons, treatment systems, and manure storage ponds shall be completely enclosed with an acceptable fence, unless a fence waiver is obtained from the Department.

M. Lagoons and manure storage ponds shall have at least four (4) warning signs posted in the four (4) cardinal directions around the perimeter of the structure. These signs should read, "Warning - Deep and Polluted Water"; ~~and one should be posted on each side of the lagoon or manure storage pond.~~

N. Vegetation on the dikes and around the lagoon, treatment system or manure storage pond should be kept below a maximum height of eighteen (18) inches. Trees or deeply rooted plants shall be prevented from growing on the dikes or within twenty-five (25) feet of the outside toe of the dikes of the lagoon, treatment system, or manure storage pond. Existing trees on the dikes shall be evaluated by NRCS staff or a dam engineer licensed in South Carolina to determine if they should be removed or remain.

O. Livestock or other animals that could cause erosion or damage to the dikes of the lagoon, treatment system, or manure storage pond shall not be allowed to enter the lagoon, treatment system, or manure storage pond, or graze on the dike or within twenty-five (25) feet of the outside toe of the dike.

P. The Department shall require existing facilities, regardless of size, with a history of manure handling, treatment, and disposal problems related to a lagoon, to phase out the existing lagoon and incorporate new technology.

200.100. Manure Utilization Area Requirements.

A. Application Rates. The Department shall approve an Animal Facility Management Plan that establishes an application rate for each manure utilization area based on the agronomic application rate of the specific crop(s) being grown, and the manure and other animal by-products' impact on the environment. The application rate shall be based on the limiting constituent (a nutrient or other constituent as given in item 200.100.B). In developing annual constituent loading rates and cumulative constituent loading rates, the Department shall consider:

1. Soil type;

2. Type of vegetation growing in land-applied area;
3. Proximity to 100-year floodplain;
4. Location in watershed;
5. Nutrient sensitivity of receiving land and waters;
6. Soil nutrient testing in conjunction with soil productivity information;
7. Nutrient, copper, zinc, and constituent content of the manure and other swine by-products being applied;
8. Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately-owned wildlife refuge, park, or trust property;
9. Proximity to other point and nonpoint sources;
10. Slope of land; anything over ten (10) percent must use runoff best management practices, runoff controls, or conservation features as per NRCS.
11. Distance to water table or groundwater aquifer;
12. Timing of manure application to coincide with vegetative cover growth cycle;
13. Timing of harvest of vegetative cover;
14. Hydraulic loading limitations;
15. Soil assimilative capacity;
16. Type of vegetative cover and its nutrient uptake ability;
17. Method of land application; and
18. Aquifer vulnerability.

B. Constituent Limits for Land Application of Liquid and Dry Animal manure and other animal by-products and Operational Practices for Land Application.

1. ~~Liquid and dry animal manure and other animal by products.~~Animal manure and other animal by- products containing only the standard constituents at normal concentrations as given by commonly accepted reference sources, such as Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, or NRCS, can be land applied at or below agronomic rates without any specific constituent limits in a permit. When the animal manure analysis indicates there are levels of arsenic, copper, zinc, or other constituents of concern, the Department shall establish constituent limits in permits for each constituent of concern to ensure the water quality standards of ~~Regulation R.~~61-68 are maintained. For these cases the producer shall comply with the following criteria:

a. Constituent Limits. If animal manure and other animal by-products subject to a constituent limit is applied to land, either:

i. The cumulative loading rate for each constituent shall not exceed the cumulative constituent loading rate for the constituent in Table 1 of Section 200.100; or

ii. The concentration of each constituent in the animal manure and other animal by-products shall not exceed the concentration for the constituent in Table 2 of Section 200.100.

b. Constituent concentrations and loading rates - animal manure and other animal by-products.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 200.100 - CUMULATIVE CONSTITUENT LOADING RATES			
Cumulative Constituent Loading Rate			
Constituent	(kilograms per hectare)	(pounds per acre)	
Arsenic	41	37	
Copper	1500	1339	
Zinc	2800	2499	

ii. Constituent concentrations.

TABLE 2 OF SECTION 200.100 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Arsenic	41
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 200.100 - ANNUAL CONSTITUENT LOADING RATES			
Annual Constituent Loading Rate			
	(kilograms per hectare	(pounds per acre per	
Constituent	per 365 day period)	365 day period)	
Arsenic	2.0	1.8	
Copper	75	67	
Zinc	140	125	

c. Additional constituents limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. ~~No producer shall apply a~~Animal manure and other animal by-products shall not be applied subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 to land if any of the rates in Table 1 of Section 200.100.B.1 have been reached.

e. ~~No producer shall apply a~~Animal manure and other animal by-products or animal lagoon sludge shall not be applied to land during a 365-day period after the annual application rate in Table 3 of Section 200.100.B.1 has been reached.

f. If animal manure and the animal by-products subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 ~~has~~have not been applied to the site, ~~these~~then cumulative rates apply.

g. If animal manure and other animal by-products subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 ~~has~~have been applied to the site and the cumulative amount of each constituent applied to the site in the animal manure and other animal by-products is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 200.100.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manures in combination with the fertilizer shall not exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any producer who confines animals shall ensure that the applicable requirements in this part are met when the animal manure and other animal by-products are applied to the land.

3. Animal manure and other animal by-products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow-covered. Animal manure and other animal by-products shall not be applied during inclement weather or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless approved by the Department in an emergency situation.

4. Animal manure and other animal by-products shall not be placed directly in groundwater.

5. ~~The~~All land application equipment, when used once or more per year, shall be calibrated at least annually by the ~~producer~~person land applying. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the producer and made available for Department review upon request. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use.

6. ~~No producer shall apply~~ aAnimal manure and other animal by-products to the land except in accordance with the requirements in this part.

7. A producer who supplies animal manure and other animal by-products to another person for land application shall provide the person who will land apply the manure and other animal by-products with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. The producer shall also supply the person who will land apply the manure with a copy of the crop management plan included in their Animal Facility Management Plan ~~or a copy of the Land Application Requirements brochure approved by the Department which outlines the land application requirements and responsibility for proper management of animal manure.~~

8. Animal manure and other animal by-products shall not be applied to or discharged onto a land surface when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application unless approved by the Department. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

9. Soil sampling (usually six to eight (6 to 8) inch depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled at least once

per year. If manure application frequency ~~shall~~will be less than once per year, then at least one (1) soil sample shall be taken prior to returning to that field for land application. All new manure utilization areas shall be evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department. Additional soil sampling may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination

10. Soil sampling to a depth of eighteen (18) inches ~~shall~~may be required by the Department to be performed within forty-five (45) days after each application of animal manure, but no more than two (2) times per year if the application frequency is more than twice per year. This sampling shall be performed for at least three (3) years after the initial application on at least one (1) representative manure utilization area for each crop grown to verify the estimated calculated manure application rates for the utilization areas. The date of manure application and the date of sampling shall be carefully recorded. The sampling shall be conducted at depths of zero to six (0 to 6) inches, six to twelve (6 to 12) inches, and twelve to eighteen (12 to 18) inches with nitrates and phosphorus being analyzed.

11. The results of the pre-application and post-application sampling shall be used by the ~~producer~~crop farmer to adjust as necessary, the amount of animal manure to be applied to a manure utilization area to meet the agronomic application rate for the crop(s) to be grown. These results shall be submitted to the Department at the time of application for permit renewal.

12. Additional soil sampling to greater depths may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination.~~The permit shall give the appropriate depth and frequency for all soil sampling.~~

13. The permittee shall obtain the following information needed to comply with the requirements in this part:

a. Manure transfer contract shall be developed for the producer to use with any person who is accepting manure in quantities greater than 12 tons per recipient per year. The contract should contain, at a minimum, the following information:

i. Name, address, county, and telephone number of the person who is purchasing or accepting animal manure and other animal by-products.

ii. Manure nutrient composition (pounds per ton of plant available Nitrogen, Phosphorus, and Potassium) to be filled in or provided by the producer. This information shall be obtained from three (3) manure analysis results and the producer shall provide this information on the manure transfer contract;

iii. Land application field information;

iv. Physical description (acreage, crop soil type)

v. Soil test results (Phosphorus, Zinc, and Copper in pounds/acre); and

vi. Recommended application rates (Nitrogen, Phosphorus, and Potassium in pounds/acre as reported on a soil test).

b. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, or a site plan sketch which includes the following information:

i. Manure application areas with setbacks outlined:

ii. Known water supply wells within 100 feet of property lines;

iii. Adjacent surface waters, including ditches, streams, creeks, and ponds; and

iv. Identification of roads and highways to indicate location.

c. Description of application equipment and name of person to land apply manure;

d. Signed agreement that informs the land owner that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with these regulations; and

e. A copy of the land application requirements shall be provided to the recipient of the manure.

14. All persons who routinely accept manure from a producer, in quantities greater than twelve (12) tons per recipient per year, shall be listed in the approved Animal Facility Management Plan. The Animal Facility Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the ~~recipient~~ applicator of their responsibility and to have a signed manure transfer contract to properly manage the land application of manure to prevent discharge of pollutants to waters of the State (including ephemeral and intermittent streams). The person accepting the manure may be required by the Department to have an Animal Facility Management Plan and a permit for their manure utilization areas.

15. All persons who accept manure from a producer, ~~regardless of whether the land is included in the waste management plan~~ in quantities less than twelve (12) tons per recipient per year, are responsible for land applying the manure in accordance with these requirements and must have a signed agreement with the producer explaining their responsibility to comply with the regulation. The Department may require the person(s) land applying the manure to correct any problems that result from the application of manure.

16. Animal manure shall not be applied to cropland more than thirty (30) days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

~~17. When the Department receives nuisance complaints on a land application site, the Department may restrict land application of animal manure on weekends.~~ When the Department receives complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

18. The Department may require manure, ~~spread on cropland~~, to be disked in immediately.

19. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours; unless otherwise approved by the Department in an emergency situation.

20. Manure shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

21. If the manure is stockpiled ~~more than three (3) days~~ outside, the manure shall be stored on a concrete pad or other approved pad (such as plastic or clay lined) and covered with an acceptable cover to prevent odors, vector attraction, and runoff on a daily basis (unless otherwise specified in the permit). The cover should be properly vented with screen wire to let the gases escape. The edges of the cover should be properly anchored.

22. ~~If a P~~roducers who contracts to transfer the animal manure and other animal by-products produced at their facility ~~a manure broker shall obtain and submit for approval an updated Animal Facility Management Plan if they discontinue using the designated broker or if the manure broker goes out of the manure brokering business changes brokers/land applier, he or she must submit notification and a new broker/land applier contract for approval to the Department.~~

23. The body of vehicles transporting manure shall be wholly enclosed and, while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.

C. Setbacks for manure utilization areas.

1. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure may be applied up to the property line. The 300-foot setback is waived with the consent of the owner of the residence. If the application method is injection or immediate incorporation, manure may be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case-by-case basis.

2. The minimum separation distance ~~in feet~~ required between a manure utilization area and waters of the State (including ephemeral and intermittent streams) located down slope from the area is 100 feet when spray application is the application method or when the manure is spread on the ground surface, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

3. The minimum separation distance ~~in feet~~ required between a manure utilization area and ditches and swales, located down slope from the area, that discharge to waters of the State including ephemeral and intermittent streams is 50 feet.

4. The minimum separation distance ~~in feet~~ required between a manure utilization area and a potable drinking water well is ~~100~~200 feet.

5. The Department may establish in permits additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be animal manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, aquifer vulnerability, and potential for vectors and odors.

6. Water (pond) that is completely surrounded by land owned by the applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

D. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface waters of the State (including ephemeral and intermittent streams). Criteria may include but is not limited to soil permeability, clay content, depth to bedrock, rock outcroppings, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and depth to the seasonal high groundwater table.

E. The Department may establish permit conditions to require that animal manure and other animal by-products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on land grant universities (in the southeast) published lime and fertilizer recommendations—, such as the Lime and Fertilizer Recommendations, Clemson Extension Services, Circular 476).

F. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring, for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include groundwater depth, operation flexibility, application frequency, type of animal manure and other animal by-products, size of manure utilization area, aquifer vulnerability, and proximity to a State Approved Source Water Protection Area and loading rate.

1. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

2. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the animal manure and other animal by-products applications based on the results of this monitoring data.

3. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

G. The Department may require manure to be treated for odor control (i.e., composting or lime stabilizing for dry operations) prior to land application if the manure is not incorporated into the soil at the time of land application or if odors exist or are suspected to exist at an undesirable level. Manure, which has a very undesirable level of odor before treatment, such as turkey manure, shall not normally be permitted to be land applied on land near residences without appropriate treatment for odor control.

200.110. Spray Application System Requirements.

A. Spray application of liquid animal manure using irrigation equipment. This includes all methods of surface spray application, including but not limited to, fixed gun application, traveling or mobile gun application, or center pivot application.

B. Manure utilization area slopes shall not exceed ten (10) percent unless approved by the Department. The Department may require that slopes be less than ten (10)% percent based on site conditions.

C. Animal manure distribution systems shall be designed so that the distribution pattern optimizes uniform application.

D. Hydraulic Application Rates.

1. Application rates shall normally be based on the agronomic rate for the crop to be grown at the manure utilization area. As determined by soil conditions, the hydraulic application rate may be reduced below the agronomic rate to ensure no surface ponding, runoff, or excessive nutrient migration to the groundwater occurs.

2. The hydraulic application rate may be limited based on constituent loading including any constituent required for monitoring under this regulation.

E. Animal manure and other animal by-products shall not be ~~land-applied or discharged onto a land surface~~ when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

F. Conservation measures, such as terracing, strip cropping, etc., may be required in specific areas determined by the Department as necessary to prevent potential surface runoff from entering or leaving the manure utilization areas. The Department may consider alternate methods of runoff controls that may be proposed by the applicant, such as berms.

G. For an animal facility, ~~A~~ a system for monitoring the quality of groundwater may also be required for the proposed manure utilization areas. The location of all the monitoring wells shall be approved by the Department. The number of wells, constituents to be monitored, and the frequency of monitoring shall be determined on a case-by-case basis based upon the site conditions such as type of soils, depth of water table, aquifer vulnerability, proximity to State Approved Source Water Protection Area, etc.

H. If an adverse trend in groundwater quality is identified, further assessment and/or corrective action may be required. This may include an alteration to the permitted application rate or a cessation of manure application on the impacted area.

I. Spray application systems should be designed and operated in such a manner to prevent drift of liquid manure onto adjacent property.

200.120. Frequency of Monitoring for Animal Manure.

A. The producer and/or integrator shall be responsible for having representative samples, based on Clemson Extension Service recommendations of the animal manure collected and analyzed at least once per year and/or when the feed composition significantly changes. The constituents to be monitored shall be given in the permit. The analyses should be used to determine the amount of animal manure to be land applied. In order to ensure that the permitted application rate (normally the agronomic rate) is met, the application amount shall be determined using a rolling average of the previous analyses. The Department shall establish minimum requirements for the proper method of sampling and analyzing of animal manure. Facilities with permits that do not specify which constituents to monitor shall monitor for Ammonium-Nitrogen, Total Kjeldahl Nitrogen (TKN), Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen), P_2-O_5 , and K_2O .

B. The Department may require nitrogen, potassium, phosphorus, the constituents listed in Table 1 and Table 2 of Section 200.100, and any other constituent contained in a permit to be monitored prior to each application.

C. Permittees do not have to analyze for any constituent that they can demonstrate to the satisfaction of the Department is not present in their animal manure.

D. All monitoring shall be done in accordance with collection procedures in Standard Methods for Analysis of Water and Wastewater or other Department guidelines. Analysis shall be conducted by Clemson

University Extension Service, or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

200.130. Dead Animal Disposal Requirements.

A. Dead animal disposal shall be done as specified in the approved Animal Facility Management Plan. The Dead Animal Disposal Plan should include the following:

1. Primary Method for the handling and disposal of normal mortality at the facility.

2. Alternate Method for the handling and disposal of excessive mortality ~~on the farm at the facility~~. The normal method of disposal may not be sufficient to handle an excessive mortality situation. Each producer ~~should~~shall have ~~an~~ a Department approved emergency or alternate method to dispose of excessive mortality. Excessive mortality burial sites shall be preapproved by the Department prior to utilization.

B. Burial. (For existing facilities permitted prior to January 2020 with a burial site approved by the Department) Facility permits issued after January 2020 or permitted facilities prior to January 2020 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal.

1. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

2. Burial pits shall not be located in the 100-year floodplain.

3. Soil type shall be evaluated for leaching potential.

4. Burial pits shall not be located or utilized on sites that are in areas that may adversely impact surface or groundwater quality or further impact impaired water bodies.

5. The bottom of the burial pit may not be within two (2) feet of the seasonal high groundwater ~~level~~table.

6. No burial site shall be allowed to flood with surface water.

7. Animals placed in a burial site shall be covered daily with sufficient cover (six (6) inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site should be properly capped (minimum two (2) feet) and grassed to prohibit erosion.

9. Proposed burial pit sites shall be approved by the Department. The Department may conduct a geologic review of the proposed site prior to approval.

10. The Department may require ~~the any new or existing~~ producer to utilize another method of dead animal disposal if burial is not managed according to the Dead Animal Disposal Plan or repeated violations of these burial requirements occur or adverse impact to surface or groundwater is determined to exist.

11. The Department may require groundwater monitoring for dead animal burial pits on a case-by-case basis. The Department shall consider all of the facts including, but not limited to, the following: depth to the seasonal high water table; aquifer vulnerability; proximity to a State Approved Source Water Protection

Area; groundwater use in the area; distance to adjacent surface waters; number of dead animals buried; and frequency of burial in the area.

C. Incinerators.

1. For animal facilities proposing an incinerator for dead animal disposal, either a permit for the air emissions shall be obtained from the Department's Bureau of Air Quality before the incinerator can be built or the following criteria shall be met in order to qualify for an exemption from an air permit:

a. The emission of particulate matter shall be less than one (1) pound per hour at the maximum rated capacity;

b. The incinerator shall be a package incinerator ~~and have a rated capacity of 500 pounds per hour or smaller which burns virgin fuel only~~ that meets the requirements from the Department's Bureau of Air Quality (BAQ); and

c. The incinerator shall not exceed an opacity limit of ~~ten (10)%~~ percent.

2. Incinerators used for dead animal disposal shall be properly operated and maintained. Operation shall be as specified in the owner's manual provided with the incinerator. The owner's manual shall be kept on site and made available to Department personnel upon request.

3. The use of the incinerator to dispose of waste oil, hazardous, or any other waste chemical is prohibited. The use of the incinerator shall be limited to dead animal disposal only unless otherwise approved by the Department's Bureau of Air Quality.

D. Composters. Composters used for dead animal disposal shall be designed by a professional engineer or an NRCS representative and operated in accordance with the approved Animal Facility Management Plan. Packaged composters shall be approved on a case by case basis.

E. Disposal of dead animals in a municipal solid waste landfill shall be in accordance with ~~Regulation R.61- 107.258~~ 19.

F. Disposal of animal carcasses or body parts into manure lagoons, ~~manure~~-treatment systems, ~~manure~~ storage ponds, waters of the ~~S~~state, ephemeral and intermittent streams, ditches, and swales is prohibited.

G. Disposal of animal carcasses or body parts by rendering shall be approved by the Department and include a signed contract with the rendering company.

~~GH.~~ Other methods of dead animal disposal that are not addressed in this regulation may be proposed in the Dead Animal Disposal Plan.

200.140. Other Requirements.

A. There shall be no discharge of pollutants from the operation into surface waters of the State (including ephemeral and intermittent streams). There shall be no discharge of pollutants into groundwater, which could cause groundwater quality not to comply with the groundwater standards established in ~~South Carolina Regulation R.61-68.~~

B. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of animal manure and other animal by-products.

C. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a state approved source water protection area.

2. 303(d) Impaired Water bodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or potential to adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area, an area where groundwater recharge may affect an aquifer.

D. If an adverse impact to the waters of the State, (including ephemeral and intermittent streams or groundwater), from animal manure and other animal by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation~~R.61-68, or a significant adverse trend occurs, the Department may require the producer responsible for the animal manure and other animal by-products to conduct an investigation to determine the extent of impact. The Department may require the producer to remediate the water to within acceptable levels as set forth in ~~Regulation~~R.61-68.

E. No manure may be released from the premises of an animal facility to waters of the State, (including ephemeral and intermittent streams,) ~~unless a permit pursuant to Section 402 or 404 of the CWA has been issued by the Department.~~

F. Animal medical waste cannot be disposed into animal lagoons, treatment systems, or manure storage ponds, or land applied with animal manure and other animal by-products.

G. In the event of a discharge from an animal facility or an animal lagoon, treatment system, or manure storage pond, the ~~owner or operator~~permittee is required to notify the Department immediately, within twenty-four (24) hours of the discharge.

H. When the Department determines that an ~~nuisance~~undesirable condition exists at an animal facility, the permittee shall take action to correct the ~~nuisance~~undesirable condition to the degree and within the time frame designated by the Department.

I. Permittees shall maintain all-weather access roads to their facilities at all times.

~~J. The body of vehicles transporting manure shall be wholly enclosed and while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.~~

200.150. Odor Control Requirements.

A. The Animal Facility Management Plan shall contain an odor abatement plan for the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas, ~~which may~~ shall consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;
2. Use of treatment processes for the reduction of undesirable odor levels;
- ~~3. Additional setbacks from property lines beyond the minimum setbacks given in this part;~~
- ~~4~~3. Other methods as may be appropriate; or
- ~~5~~4. Any combination of these methods.

B. Producers shall utilize Best Management Practices normally associated with the proper operation and maintenance of an animal facility, lagoon, treatment system, manure storage pond, and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No producer may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is at an undesirable level.

~~D. After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. If the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to, the following:~~

~~E. The Department may require these abatement or control practices, including, but not limited to the following:~~

1. Remove or dispose of odorous materials;
2. Methods in handling and storage of odorous materials that minimize emissions;
 - a. Dry manure to a moisture content of fifty (50)% percent or less;
 - b. Solids separation from liquid manure, and composting of solids;
 - ~~b~~c. Disinfection to kill microorganisms present in manure;
 - ~~c~~d. Aeration manure;
 - ~~d~~e. Composting of solid manure and other animal by-products; and/or
 - ~~e~~f. Odor Control Additives.
3. Prescribed standards in the maintenance of premises to reduce odorous emissions;
 - a. Filtration (biofilters or other filter used to remove dust and odor) of ventilation air;

- b. Keep animals clean ~~or~~ and separate from manure;
- c. Adjust number of animals confined in the pens or paddocks in accordance with Clemson University Animal Space Guidelines.
- d. ~~Increase the frequency~~ manure removal from animal houses;
- e. ~~Keep~~ Feeding areas should be kept dry, and minimize waste feed accumulation;
- f. Maintaining feedlot surfaces in a dry condition (~~twenty-five (25)% to forty (40)% percent~~ moisture content), with effective dust control;
- g. ~~Maintain~~ Proper maintenance of the dead animal disposal system;
- h. Covering or reducing the surface area of manure and other animal by-products storage. (Vents shall be provided for the release of pressure created by manure gases if completely sealed covers are used);
- i. ~~Plant trees around or downwind of the manure and other animal by-products storage and treatment facilities;~~ Planting trees around or downwind of the manure and other animal by-products storage and treatment facilities (Trees shall not be planted within 25 feet of the toe of the dike.);
- j. Incorporate ion of manure and other animal by-products immediately after land application; and/or
- k. Selection of appropriate times for land application.

4. Best Available Technology to reduce odorous emissions.

E. Nothing in this section prohibits an individual or group of persons from bringing a complaint against a facility including problems at lagoons, treatment systems, manure storage ponds, and manure utilization areas.

F. If the permittee fails to control or abate the odor problems at ~~a land application site~~ an animal facility, lagoon, treatment system, manure storage pond, and any manure utilization area to the satisfaction and within a time frame determined by the Department, the permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary to provide a sufficient amount of land for manure utilization.

200.160. Vector Control Requirements.

~~A. Vector Abatement Plan.~~ The Vector Abatement Plan shall at a minimum consist of the following:

1. ~~Normal~~ Best management practices used at the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.

2. A list of specific actions to be taken by the producer if vectors are identified as a problem at the animal facility, lagoon, treatment system, manure storage pond, or any manure utilization area. These

actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.

B. No producer and or broker/land applier may cause, allow, or permit vectors to breed or accumulate in quantities that result in a ~~nuisance~~undesirable condition level, as determined by the Department.

~~C. The Department shall require remediation of the problem to the satisfaction of the Department, after determining a vector problem exists.~~For an existing facility, if the Department determines a vector problem exists, the Department may require these abatement of control practices, including, but not limited to the following:

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;
2. Methods in handling and storage of materials that minimize vector attraction;
 - a. Remove spilled or spoiled feed from the house as soon as practicably possible not to exceed forty-eight (48) hours, unless otherwise approved by the Department;
 - b. Remove and properly dispose of dead animals as soon as practicably possible not to exceed twenty-four (24) hours, unless otherwise approved by the Department;
 - c. Increase the frequency of manure removal from animal houses;
 - d. Prevent solids buildup in the pit storage or on the floors or walkways;
 - e. Remove excess manure packs along walls and curtains;
 - f. Compost solid manure and other animal by-products;
 - g. Appropriately use vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);
 - h. Utilize traps, or electrically charged devices;
 - i. Utilize biological agents;
 - j. Utilize Integrated Pest Management;
 - k. Incorporate manure and other animal by-products immediately (within twenty-four (24) hours) after land application; and/or
 - l. Contact Clemson Extension Service for appropriate measures to control a vector problem.
3. Prescribed standards in the maintenance of premises to reduce vector attraction;
 - a. Remove ~~any~~ standing water that may be a breeding area for vectors;
 - b. Keep animals clean or separated from manure;

- c. Keep facility clean and free from trash or debris;
 - d. Properly utilize and service bait stations;
 - e. Keep feeding areas dry, and minimize waste feed accumulation;
 - f. Keep grass and weeds mowed around the facility and manure storage or treatment areas;
 - g. Properly maintain the dead animal disposal system;
 - h. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
 - i. Properly store feed and feed supplements;
 - j. Conduct a weekly vector monitoring program;
 - k. Be aware of insecticide resistance problems, and rotate use of different insecticides;
 - l. Prevent and repair leaks in waterers, water troughs, or cups; and/or
 - m. ~~Provide~~ Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.
4. Utilize the best available control technology to reduce vector attraction and breeding.

200.170. Record Keeping.

A. A copy of the approved Animal Facility Management Plan, including approved updates, and a copy of the permit(s) issued to the producer shall be retained by the permittee for as long as the animal facility is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. However, if the facility was permitted prior to June 26, 1998, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.

C. Records shall be developed for each manure utilization area. These records shall be kept for eight (8) years. The records shall include the following:

- 1. For each time animal manure and other animal by-products are applied to the site, the amount of animal manure and other animal by-products applied (in gallons per acre or pounds per acre, as appropriate), the date and time of application, and the location of application;
- 2. All sampling results for animal manure that is land applied;
- 3. All soil monitoring results;
- 4. All groundwater monitoring results, if applicable; and

5. Crops grown.

D. Records for the facility to include the following on a monthly basis:

1. ~~Monthly a~~Animal count and the normal production animal live weight; and
2. Mortality count and method of disposal.

E. Records for lagoon, treatment system, or manure storage pond operations to include the following:

1. Monthly water levels of the lagoon, treatment system, and manure storage pond; and
2. ~~All g~~Groundwater monitoring results, if applicable.

F. All records retained by the producer shall be kept at either the facility, an appropriate business office, or other location as approved by the Department.

G. All records retained by the producer shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

200.180. Reporting.

A. Large and X-large animal facilities (~~greater than 500,000 pounds normal production live weight~~) are required to submit an annual report, on a form approved by the Department. The Department may establish reporting requirements in permits as it deems appropriate. These reporting requirements may include the following:

1. All manure sampling results for the last year and the latest rolling average concentration for the land limiting constituent;
2. All soil monitoring results if applicable;
3. All groundwater monitoring results, if applicable;
4. Calculated (~~permitted application rate~~) application rates for all manure utilization areas; and
5. The adjusted application rates, if applicable, based on the most recent animal manure sampling, soil samples, and crop yield(s). The application rate change could also be due to a change in field use, crop grown, or other factors.

B. The Department may require small animal facilities (~~500,000 pounds or less of normal production live weight~~) to submit annual reports on a case-by-case basis.

C. The Department may establish permit conditions to require a facility to complete and submit a comprehensive report every five (5) years. The Department shall review this report to confirm that the permitted nutrient application rates have not been exceeded. Based on the results of the review, additional soil and/or groundwater monitoring requirements, permit modification, and/or corrective action may be required.

200.190. Training Requirements.

A. An owner/operator of an animal facility or manure utilization area shall attend a training program on the operation of animal manure management under the program created and operated by Clemson University.

B. Owners/Operators of new and existing animal facilities ~~and large animal facilities (greater than 500,000 pounds normal production live weight)~~ shall be required to obtain certification under the program created and operated by Clemson University. The Department may also require existing operators with documented violations to obtain certification under Clemson's program.

C. The ~~training and~~ certification program shall be completed by owners/operators of new facilities within one (1) year of the effective date of the issued permit.

D. The ~~training and/or~~ certification program shall be completed by owners/operators of existing facilities within ~~two years~~ one (1) year of the effective date of this regulation.

E. ~~Training and/or~~ eCertification shall be maintained as long as the facility remains in operation. All facilities must have a CAMM certified operator at all times.

F. Failure to obtain the ~~training and/or~~ certification as provided in this Section shall be deemed a violation of this regulation and the permit may be revoked.

G. An owner/operator of a cattle stockyard shall be exempt from attending the training program on the operation of animal manure management under the program created and operated by Clemson University (CAMM).

200.200. Violations.

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

B. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Department to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 and 48-1-330 of the Code.

PART 300 INNOVATIVE AND ALTERNATIVE TECHNOLOGIES.

- 300.10. ~~General~~
- 300.20. ~~Submittal Requirements.~~
- 300.30. ~~Requirements in Lieu of Requirements Under Part 100 and Part 200 of This Regulation.~~
- 300.40. ~~Innovative and Alternative Treatment for Technologies.~~
- 300.50. ~~Exceptional Quality Compost.~~
- 300.60. ~~Public Notice Requirements.~~

300.10. General.

A. The Department supports and encourages the use of appropriate innovative and alternative technologies.

B. When innovative or alternative technology is proposed for an agricultural facility for manure and other animal by-products handling, treatment, storage, processing, or utilization, a meeting should be held with the Department prior to the submittal of the project. The purpose of the meeting is for the applicant and the Department to go over the proposed project and the purpose and expected benefits from the use of the innovative or alternative technology.

300.20. Submittal Requirements.

A. When innovative or alternative technology is proposed for an agricultural facility for manure and other animal by-products handling, storage, treatment, processing, or utilization, the applicant shall provide to the Department the submittal information contained in Sections 100.50 or 200.50, as appropriate, and a detailed project report which explains the innovative or alternative technology and the purpose and expected benefits of the proposal.

300.30. Requirements in Lieu of Requirements Under Part 100 or Part 200 of This Regulation.

A. When the Department determines that appropriate alternative or innovative technology is being proposed, the specific requirements given in Part 100 and 200 of this regulation which deal with the purpose or expected benefits of the technology may not have to be met except when required by a specific statute or the Department after review of the project. Requirements in Part 100 that apply to X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall not be reduced or waived.

B. The Department shall review the project and determine the purpose or benefits of the proposed innovative or alternative technology and determine which requirements under Part 100 or 200 do not have to be met and the appropriate requirements to be used in lieu of the requirements in Part 100 or 200.

C. When an alternative or innovative technology is proposed, the review criteria shall be established on a case-by-case basis by the Department when the project is received.

D. When alternative or innovative technology is utilized at an animal facility, the setbacks given in Part 100 or 200 may be reduced by the Department as appropriate. Requirements in Part 100 that apply to large or X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall not be reduced or waived.

300.40. Innovative and Alternative Treatment Technologies.

A. The following is a list of innovative or alternative technologies for agricultural facilities to consider. This list is not exhaustive. Other processes exist and new technologies are being developed.

1. Aerobic treatment systems or combination aerobic/anaerobic systems;
2. Artificial (constructed) wetlands use for treatment;
3. Use of steel tanks;
4. Use of solid separators;
5. Methane Gas Recovery Systems;
- ~~6. Surface Water Discharge Systems;~~

- ~~7.6.~~ Composting manure solids;
- ~~8.7.~~ Bioreactors;
- ~~9.8.~~ Covered liquid or slurry manure storage;
- ~~10.9.~~ Air Scrubbers;
- ~~11.10.~~ Ozonation; and
- ~~12.11.~~ Alternative Fuels.

B. At a minimum, the preparer of the agricultural Animal Facility Management Plan should consider the technologies given in 300.40.A for use at a proposed agricultural facility when the Animal Facility Management Plan is being developed.

C. When odors exist or are reasonably expected to exist at an undesirable level, the Department may require the use of appropriate innovative or alternative treatment technology to eliminate the odors or the potential for odors.

D. When the Department determines under Section 100.70.G. (Permit Decision Making Process) that there is reasonable potential for cumulative or secondary impacts due to methane gas from facilities, the Department may require the use of methane gas recovery systems or other appropriate technology to eliminate the potential impacts.

300.50. Exceptional Quality Compost.

A. When the Department determines that the composting of solid animal manure and other animal by-products is performed in such a manner that the odor and vector attraction potential is reduced and the controlled microbial degradation of the organic manure and other animal by-products has been accomplished, this material may be considered ~~e~~Exceptional ~~e~~Quality ~~e~~Compost. Exceptional ~~e~~Quality ~~e~~Compost may be sold or distributed without regulation by the Department, if it meets the requirements of this part and the standards established by Penn State University. The Department shall review and approve the compost design and proposal for operation and distribution of the composted product. Composting systems shall be designed by a professional engineer or an engineer with the Natural Resources Conservation Service.

B. Composting can be subject to ~~nuisance~~ problems such as odors, dusts, and vector attraction. Therefore, the composting facility shall incorporate measures to control such conditions. An Odor and Vector Abatement Plan shall be developed for a composting facility.

C. Compost Product Quality Standards.

1. Product Standards are necessary to protect public and environmental health and to ensure a measure of commercial acceptability.

a. Based on EPA standards for pathogen reduction, the time/temperature conditions required are equivalent to an average of 128 degrees Fahrenheit (°F) (53 degrees Celsius (°C)) for five (5) consecutive days, 131°F (55°C) for 2.6 consecutive days, or 158°F (70°C) for thirty (30) minutes.

b. The composted product shall meet or exceed the minimum standard of mature or very mature compost as set forth in the USDA Test Methods for the Examination of Composting and Compost (TMECC) Section 05.02-G CQCC Maturity Index. A maturity rating shall be given based upon the Maturity Assessment Matrix given in this method.

c. When land applied, the compost shall adhere to requirements for constituent concentrations and loading rates as outlined in Part 100.100, Part 200.100, or Part 400.60.

2. Compost products which meet these standards and also comply with pathogen quality and vector attraction standards are considered to be of ~~e~~Exceptional ~~q~~Quality and can be used without regulatory oversight, other than the compliance of agronomic application rates based on product analysis.

3. If the Department determines that the composting system is not being operated properly or that the composted product is not of an Exceptional Quality, the composted product shall be handled in accordance with the land application requirements of Part 100, 200 or 400 (as applicable) of these regulations.

4. An operable thermometer capable of measuring temperatures within a compost pile shall be kept at the composting facility for monitoring the temperature of each compost pile or batch. A written log of the daily temperature reading should be kept for each batch of compost. Temperatures shall not be allowed to rise above 180°F (82°C), which may cause combustion in the compost pile and start a fire.

5. The composted product shall be analyzed by Clemson University or another Department approved laboratory. The composted product content information along with recommended application rates shall be distributed with the product. The consumer shall be advised that the composted product shall be applied at an agronomic rate.

300.60. Public Notice Requirements.

A. When the Department permits an alternative or innovative technology, the notice on the issuance of the permit required under Sections 100.60.H. or 200.60.H. shall contain a general description of the innovative or alternative process and a summary of the expected benefits.

PART 400 MANURE BROKER/LAND APPLIER OPERATIONS:

- ~~400.10 Purpose and Applicability.~~
- ~~400.20. Permits and Compliance Period.~~
- ~~400.30. Relationship to Other Regulations.~~
- ~~400.40. Permit Application Procedures (Broker Management Plan Submission Requirements).~~
- ~~400.50. Permit Decision Making Process.~~
- ~~400.60. Manure Utilization Area Requirements.~~
- ~~400.70. Other Requirements.~~
- ~~400.80. Odor Control Requirements.~~
- ~~400.90. Vector Control Requirements.~~
- ~~400.100. Record Keeping.~~
- ~~400.110. Reporting.~~
- ~~400.120. Training Requirements.~~
- ~~400.130. Violations.~~

400.10. Purpose and Applicability.

A. Purpose.

1. To protect the environment and the health and welfare of citizens of the State from pollutants generated by the processing, treatment, and land application of dry animal manure and other animal by-products.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the use of dry animal manure and other animal by-products generated at animal facilities. Standards are included in this part for dry animal manure and other animal by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for brokers/land appliers who operate dry animal manure and other animal by-products handling businesses.

4. To establish standards for the proper operation and maintenance of dry animal manure and other animal by-products treatment and storage facilities associated with manure brokering/land applying operations.

5. To establish criteria for dry animal manure and other animal by-products storage facilities and manure utilization areas location as they relate to protection of the environment and public health. The location of dry animal manure and other animal by-products storage facilities and manure utilization areas as they relate to zoning in an area is not covered in this regulation. Local county or municipal governments may have zoning requirements and these regulations neither interfere with nor restrict such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

B. Applicability.

1. This part applies to:

- a. All new and ~~expanding~~ renewing dry manure brokering/land applying operations;
- b. All dry animal manure and other animal by-products treatment or storage facilities operated by brokers/land appliers; and
- c. Permanent manure utilization areas added to a manure broker/land applier management plan.

2. This part applies to all dry animal manure and other animal by-products taken, bought, given, handled or sold by a manure broker.

3. This part applies to all land where dry animal manure and other animal by-products bought, given, taken, handled or sold by a manure broker/land applier is applied.

4. This part applies to out-of-state and in-state based manure brokers/land appliers who accept manure and other animal by-products from agricultural animal facilities located in the State.

5. This part applies to all manure brokers/land appliers who bring animal manure and other animal by-products from other states into ~~the state of~~ South Carolina.

6. Part 200.80 C. (Dry Animal manure and other animal by-products Treatment and Storage Facility Siting Requirements) of this regulation applies to dry animal manure and other animal by-products treatment or storage facilities proposed by brokers/land appliers.

7. If a manure broker/land applier proposes to handle, process, treat, or store liquid animal manure as a part of the operation, the requirements of this part shall be met, at a minimum. However, the Department may require that the applicant meet additional requirements applicable to liquid manure that are included in Part 100 and Part 200.

~~8. Existing brokers that hold a valid permit from the Department are deemed permitted under this regulation, and do not need to apply for a new permit. The deemed permitted brokers shall meet all the requirements of this part.~~

400.20. Permits and Compliance Period.

A. Permit Requirement. Animal manure and other animal by-products from an animal facility with dry manure handling can only be handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department. The handling, storage, treatment, and final utilization of animal manure and other animal by-products from a manure broker/land applier operation shall be permitted under the provisions of this part before the broker/land applier can operate in the State.

B. Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, prior to any change in operational procedures in a permitted broker/land applier operation, including, but not limited to, the following:

1. Change in operations or in manure and other animal by-products treatment, storage, handling, or utilization;
2. Change in contracts routinely used in manure and other animal by-products transfers; or
3. Termination of operations.

400.30. Relationship to Other Regulations.

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~B.A.~~ Application and annual operating fees are addressed in Regulation R.61-30.

~~C.B.~~ The proper closeouts of wastewater treatment facilities are addressed in Regulation R.61-82. This regulation includes animal manure treatment lagoons and manure storage ponds.

~~D~~Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.

~~E.C.~~ Setbacks and construction specifications for potable water wells and Monitoring wells shall be in accordance with Regulation R.61-71.

~~F.D.~~ Permits for air emissions from incinerators are contained in Regulation R.61-62.

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in ~~Regulation R.61-107.25819.~~

~~HF.~~ Disposal of animal manure with domestic or industrial sludge is addressed in ~~Regulation R.61-9 and permitted under R.61-9.~~

~~IG.~~ Procedures for contested cases are addressed in ~~Regulation R.61-72 and the Rules of the State's Administrative Law Judge Court Division.~~

~~JG.~~ Laboratory Certification is addressed in ~~Regulation R.61-81.~~

~~KH.~~ Water Classifications and Standards are addressed in ~~Regulation R.61-68.~~

400.40. Permit Application Procedures (Broker/Land Applier Management Plan Submission Requirements).

A. A ~~broker~~person who proposes to operate as a ~~broker/land applier~~dry animal manure brokering operation or expand an existing operation shall ~~make~~submit an application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed application form as designated by the Department.

2. A Broker/Land Applier Management Plan prepared by qualified Natural Resources Conservation Service personnel, an S.C. registered professional engineer, or other qualified individuals, such as certified soil scientists or S.C. registered professional geologist. The Broker/Land Applier Comprehensive Nutrient Management Plan shall at a minimum contain:

a. Brokering/land applying Operation name, address, email, telephone number, county, and permit number (if applicable) and CAMM number (or if applicable, date of CAMM class);

b. Applicant's name, address, email, and telephone number (if different from above);

c. Broker's/land applier's name;

d. Dry Animal manure and other animal by-products Storage or Treatment Facility Information (if applicable):

i. Description of animal manure and other animal by-products storage and storage capacity;

ii. Description of animal manure and other animal by-products treatment (if any);

iii. Facility location description and the zoning or land use restrictions in this area (this information should be obtained from the county). ~~Facility shall meet the siting requirements outlined in Section 200.80.C of this regulation.~~The minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated by a manure broker/land applier and the lot line of real property owned by another person is 200 feet and 1,000 feet to the nearest residence. However, the Department shall evaluate each proposed site to consider increasing distances, when the amount of manure stored, treated or processed at this facility is significant.

e. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A ~~general~~ crop management plan which includes the optimum time of year of the animal manure and other animal by-products application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) ~~in general~~ for manure utilization areas in the State. This information should be used as a guide in the absence of more accurate information. The Plan Preparer may need to include this information for the different regional areas of ~~the~~ State, as necessary, to provide the broker/land applier with ~~general~~ crop information for the entire State;

ii. Type of equipment used to transport and/or spread the animal manure and other animal by-products ~~(if applicable)~~;

iii. Description of services provided by the broker/land applier (clean-out houses, transport manure and other animal by-products, drop-off only, land application, incorporation of manure and other animal by-products into field, stacking or storing manure and other animal by-products, manure and other animal by-products treatment, etc.);

iv. Example of the contract or letter of intent to buy or accept animal manure and other animal by-products between the broker/land applier and the producer who is supplying the animal manure and other animal by-products; and

v. Example of the manure transfer contract to be used for the transfer of animal manure and other animal by-products between the broker and the person(s) who is accepting or purchasing the animal manure and other animal by-products. The Department has developed a Manure transfer contract that can be used or the broker may develop his own contract as long as it contains the minimum information outlined in part 400.60.~~BC~~.12.

3. The Broker/Land Applier Management Plan shall contain an odor abatement plan for the dry animal manure and other animal by-products storage or treatment facility or manure utilization areas, as appropriate.

4. A Vector Abatement Plan shall be developed for the dry animal manure and other animal by-products storage or treatment facility or land application areas, (if applicable).

5. ~~Soil Monitoring Plan~~-A soil monitoring plan shall be developed for all broker/land applier operations.

6. Plans and specifications for the construction and operation of all manure and other animal by-products treatment or storage structures, such as composters or manure storage sheds that are to be owned and operated by the broker/land applying operation.

7. Adjoining property owners written agreement for reduction of setbacks for any manure storage and/or treatment facilities (if applicable).

8. Application fee and first year's operating fee as established by ~~Regulation R~~. 61-30.

B. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the broker/land applier operation permit application prior to processing the application or issuing, modifying, or denying a permit.

C. Applicants shall submit all required information in a format acceptable to the Department.

D. Incomplete submittal packages ~~may~~shall be returned to the applicant by the Department. An application package for a permit is complete when the Department receives all of the required information; ~~which has been completed to its satisfaction.~~

E. Application packages for permit modifications only need to contain the information applicable to the requested modification.

400.50 Permit Decision Making Process

A. No permit shall be issued before the Department receives a complete application for a permit.

B. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Broker/Land Applier Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

C. A site inspection of any proposed sites for dry animal manure and other animal by-products storage or treatment facilities shall be made by the Department before a permit decision is made.

D. For permit issuances, the Department, ~~at the expense of the applicant,~~ shall publish a notice of issuance of a permit to operate a dry animal manure brokering operation on the Department's website ~~in a local newspaper of general circulation in the area of the broker's base of operations.~~

E. For permit denials, the Department shall give the permit applicant a written explanation, which outlines the specific reason(s) for the permit denial.

~~F. The appeal of a permit decision is governed by the S.C. Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Judge Court Division.~~

~~GF.~~ When a permit is issued, it shall contain an issue date and an effective date. The effective date shall be at least ~~twenty (20)~~ fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit is effective.

~~HG.~~ Permits issued under this part for broker/land applier operations shall be renewed ~~at least~~ every five years. However, subsequent to the issuance of a permit, if the broker/land applier operation is not in operation or production for two consecutive years, the permit is no longer valid and a new permit shall be obtained. If the Broker/Land Applier does not apply for permit renewal or does not fulfill the requirements of the permit renewal, the permit is terminated.

~~HH.~~ An expired broker/land applier operation permit which was issued under this part continues in effect until a new permit is effective only if the permittee submits a complete application, to the satisfaction of the Department, at least 120 days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two (2) consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing when they go out of business.

~~H.~~ The Department shall review all broker/land applier operation records for permit renewal at the time of application. The ~~Department may require that~~ broker/land applier is required to add routine application sites are added to the an updated broker management plan at the time of renewal. These manure utilization areas that are added to the broker management plan shall meet all the requirements for manure utilization areas included in Part 200 of these regulations.

~~KJ.~~ The brokering/land applying operation can only be built (if a manure storage or treatment facility was included) or operated when the permit is effective with no appeals pending. The dry animal manure and other animal by-products treatment or storage facility cannot be placed into operation until the Department grants ~~written authorization to begin operations~~ ATO.

~~LK.~~ For manure brokers/land appliers who do not have any constructed facilities associated with their operations, the Department shall issue an permit approval to operate with an effective date. Once this permit is effective, with no appeals pending, the broker/land applier may begin operations. No additional written ~~authorization approval~~ from the Department shall be required.

~~ML.~~ For manure brokers/land appliers who are permitted to construct a storage or treatment facility associated with the brokering/land applying operation, ~~authorization approval~~ to begin operations shall be obtained prior to operation. To receive authorization approval to begin operations, the broker/land applier shall have the preparer of the Broker/Land Applier Management Plan submit to the Department written certification that the construction of the dry animal manure and other animal by-products treatment or storage facility has been completed in accordance with the approved Broker/Land Applier Management Plan and the requirements of this regulation.

~~NM.~~ The Department ~~may shall~~ conduct a final inspection of any dry animal manure and other animal by-products treatment or storage facilities before granting ~~authorization approval~~ to a broker/land applier to begin operations (if applicable).

~~ON.~~ The Department shall grant written ~~authorization approval~~ for the broker/land applier to begin operations of the dry animal manure and other animal by-products treatment or storage facility after it has received the certification statement in 400.50.M and the results of the final inspection, if conducted, are satisfactory.

400.60. Manure Utilization Area Requirements.

A. Application Rates. The Department shall approve a Broker/Land Applier Management Plan that establishes application rates based upon the limiting constituent (a nutrient or other constituent as given in item 400.60.B). The limiting constituent shall be Nitrogen, unless the soil test results exceed the limits for phosphorus. More information on maximum allowable constituent concentrations are outlined in item 400.60.B and item 400.60.C.

B. Constituent Limits for Land Application of Dry Animal manure and other animal by-products and Operational Practices for Land Application.

1. Dry animal manure and other animal by-products. When the animal manure analysis indicates there are high levels of arsenic, copper, zinc, or other constituent of concern, the producer shall comply with the following criteria:

a. Constituent Limits. If animal manure and other animal by-products subject to a constituent limit is applied to land, either:

i. The cumulative loading rate for each constituent shall not exceed the loading rate in Table 1 of Section 400.60; or

ii. The concentration of each constituent in the animal manure and other animal by-products shall not exceed the concentration in Table 2 of Section 400.60.

b. Constituent concentrations and loading rates - animal manure and other animal by-products.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 400.60 - CUMULATIVE CONSTITUENT LOADING RATES			
Cumulative Constituent Loading Rate			
Constituent	(kilograms per hectare)	(pounds per acre)	
Arsenic	41	37	
Copper	1500	1339	
Zinc	2800	2499	

ii. Constituent concentrations.

TABLE 2 OF SECTION 400.60 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Arsenic	41
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 400.60 - ANNUAL CONSTITUENT LOADING RATES			
Annual Constituent Loading Rate			
Constituent	(kilograms per hectare per 365 day period)	(pounds per acre per 365 day period)	
Arsenic	2.0	1.8	
Copper	75	67	
Zinc	140	125	

c. Additional constituent limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. No person shall apply animal manure and other animal by-products to land if any of the loading rates in Table 1 of Section 400.60.B.1 have been reached.

e. No person shall apply animal manure and other animal by-products to land during a 365-day period after the annual application rate in Table 3 of Section 400.60.B.1 has been reached.

f. If animal manure and other animal by-products have not been applied to the site, the cumulative amount for each constituent listed in Table 2 of Section 400.60.B.1 may be applied to the site in accordance with Section 400.60.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

g. If animal manure and other animal by-products have been applied to the site and the cumulative amount of each constituent applied to the site in the animal manure and other animal by-products is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 400.60.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manures in combination with the fertilizer shall not exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any person who land applies animal manure and other animal by-products shall ensure that the applicable requirements in this part are met when the animal manure and other animal by-products are applied to the land.

3. When the Department receives complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

C. Requirements for the land application of animal manure and other animal by-products.

~~1. Animal manure and other animal by products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow covered. Animal manure and other animal by products shall not be applied during inclement weather, or when a significant rain event is forecasted to occur within 48 hours. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure and other animal by-products should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours.~~

2. Animal manure and other animal by-products shall not be placed directly in groundwater.

3. Animal manure and other animal by-products shall not be applied to cropland more than thirty (30) days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

~~4. The land application equipment, when used once or more per year, shall be calibrated at least annually by the person who land applies animal manure; more frequent calibrations may be required in a permit to ensure that proper application rates are being attained. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use. The land application equipment, when used once or more per year, shall be calibrated at least annually by the applicator. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the broker/land applier and made available for Department review upon request. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use.~~

5. If the broker chooses to offer manure analysis as a service, the manure shall be analyzed at least once per year. If the broker does not perform manure analysis, the animal producer shall provide the broker with a copy of the most recent manure analysis. Dry animal manure information (as appropriate) shall be included as follows:

a. Dry animal manure shall be analyzed for the following:

i. Nutrients (on a dry weight basis).

(a) Total Kjeldahl Nitrogen (mg/kg).

(b) Total inorganic nitrogen (mg/kg).

(c) Total ammonia nitrogen (mg/kg) and Total nitrate, nitrogen (mg/kg).

(d) P₂O₅ (mg/kg).

(e) K₂O (mg/kg).

(f) Calcium Carbonate equivalency (if animal manure is alkaline stabilized).

ii. Constituents (on a dry weight basis).

(a) Arsenic (mg/kg).

(b) Copper (mg/kg).

(c) Zinc (mg/kg).

b. Name, address, email, and telephone number of the laboratory conducting the analyses.

c. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

6. Permittees do not have to analyze for any constituent that they can demonstrate to the satisfaction of the Department is not present in their manure.

7. No person(s) accepting or purchasing manure or other animal by-products from a manure broker shall apply animal manure and other animal by-products to the land except in accordance with the requirements in this part. The broker shall inform the recipient of their responsibility to properly manage the land application of manure to prevent discharge of pollutants to waters of the State (including ephemeral and intermittent streams) and ditches that lead to waters of the State.

8. An animal producer who supplies animal manure to a broker/land applier shall provide the broker/land applier with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. ~~Unless~~If the broker/land applier is providing an additional service of ~~performing the manure analysis, collecting the manure samples to be analyzed,~~ which shall be agreed upon up-front in the manure transfer contract, the analysis shall identify the name of the farm where the manure originated.

9. Animal manure and other animal by-products shall not be applied to or discharged onto a land surface when the vertical separation between the manure and other animal by-products and the seasonal water table is less than 1.5 feet at the time of application. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

10. Soil sampling (6-8 inches depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled once per year. If manure application frequency will be less than once per year, at least one (1) soil sample should be taken prior to returning to that field for land application-again. This sample shall not be more than one (1) year old. All new manure utilization areas shall be evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). This information shall be obtained from person(s) accepting dry animal manure and other animal by-products prior to the delivery or land application of animal manure and other animal by-products by the broker/land applier. Soil phosphorus shall be addressed according to NRCS-CPS in the broker management plan. However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department. The Department may require additional limits on soil phosphorus in the permit conditions. Additional soil sampling may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination.

11. The permittee shall obtain information needed to comply with the requirements in this part.

12. A Manure Transfer Contract shall be developed for the ~~B~~broker to use with any person who is accepting manure in quantities greater than twelve (12) tons per recipient per year. The contract should contain, at a minimum, the following information:

a. Name, address, email, county, and telephone number of the person who is purchasing or accepting animal manure and other animal by-products;

b. Name, address, email, CAMM number, county, and telephone number of the broker who is selling or providing animal manure and other animal by-products;

~~b~~c. Manure nutrient composition (pounds per ton of Plant Available Nitrogen, Phosphorus, and Potassium) to be filled in or provided by the broker/land applier. This information shall be obtained from the manure analysis results and the broker shall provide this information on the manure transfer contract;

ed. Land Application Field Information:

i. Physical Description (acreage, crop, soil type);

ii. Soil Test Results (Nitrogen, Phosphorus, Potassium, Zinc, and Copper in pounds/acre); and

iii. Recommended Application Rates (Nitrogen, Phosphorus, and Potassium in pounds per acre as reported on a soil test).

~~e~~e. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, ~~O~~R or a site plan sketch which includes the following information:

i. Manure application area with setbacks outlined;

ii. Known water supply wells within 100 feet of the property line;

iii. Adjacent surface waters, including ditches, streams, creeks and ponds; and

iv. Identification of roads and highways to indicate location.

ef. Description of application equipment and name of person to land apply manure;

fg. Signed agreement that informs the land owner/applier that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with these regulations; and

gh. A copy of the land application requirements shall be provided to the recipient of the manure.

13. All persons who routinely accept animal manure and other animal by-products, in quantities greater than twelve (12) tons per recipient per year, from a broker shall be listed in the approved Broker Management Plan at the time of permit renewal. The Broker Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The person accepting the manure may be required by the Department to have a Management Plan and a permit for their manure utilization areas.

14. Dead animals shall be removed from ~~dry manure~~ animal manure and other animal by-products prior to land application. The livestock producer is responsible for removing all dead animals from the manure prior to transfer. Manure brokers/land appliers may not accept manure that contains dead animals, unless the broker/land applier plans to separate out the dead animals and handle the dead animals in accordance with a dead animal disposal plan approved by the Department.

15. When the Department receives ~~nuisance~~ complaints on a land application site, the Department may restrict land application of animal manure on the site completely or during certain time periods.

16. The Department may require ~~manure~~ animal manure and other animal by-products, spread on cropland, to be disked in immediately.

17. ~~Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby opposite dwellings. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours.~~

18. Any ~~manure~~ animal manure and other animal by-products that contains fly larvae and fly pupae shall be disked into the ground immediately or be treated with an approved and effective fly control method. If the manure utilization on a land application area creates a fly problem for the community, the owner and/or applicator shall be responsible for the control of all flies resulting from the application of the manure. Assistance in fly control and fly problem prevention can be obtained through contact with the local Clemson Extension Service Office.

19. ~~Manure~~ Animal manure and other animal by-products shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

20. ~~Should the manure be stockpiled more than three (3) days, If the manure is stockpiled outside, the manure shall be stored on a concrete pad and/or other acceptable means approved pad and covered with an acceptable cover to prevent odors, vectors and runoff on a daily basis (unless otherwise stated in the permit). The cover should be properly vented with screen wire to let the gases escape. The edges of the cover should be properly anchored.~~

21. Manure Brokers/Land Appliers and other manure transporters shall use all sanitary precautions in the collection, storage, transportation, and spreading of ~~manures~~ animal manure and other animal

by-products. The body of all vehicles transporting manure shall be wholly enclosed, or shall at all times, while in transit, be kept covered with an appropriate cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the ~~manure~~animal manure and other animal by-products, the owner/operator shall take immediate steps to clean up the ~~manure~~animal manure and other animal by-products.

D. Setbacks for manure utilization areas.

1. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence ~~is located~~ is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure may be utilized up to the property line. The setback may be waived with the written consent of the owner of the residence. If the application method is injection or immediate incorporation (same day), manure can be utilized up to the property line.

2. The minimum separation distance ~~in feet~~ required between a manure utilization area and waters of the State (including ephemeral and intermittent streams) is 100 feet when dry manure is spread on the ground surface, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

3. The minimum separation distance ~~in feet~~ required between a manure utilization area and ditches and swales that discharge to waters of the State including ephemeral and intermittent streams is 50 feet.

4. The minimum separation distance ~~in feet~~ required between a manure utilization area and a potable drinking water well is ~~100~~200 feet.

5. The Department may establish additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be animal manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, and potential for vectors and odors.

E. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface waters of the State (including ephemeral and intermittent streams). Criteria may include but is not limited to soil permeability, clay content, depth to bedrock, rock outcroppings, ~~and depth to groundwater~~aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and depth to the seasonal high groundwater table.

F. The Department may establish permit conditions to require that animal manure and other animal by- products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on land grant universities (in the southeast) published lime and fertilizer recommendations—(, such as the Lime and Fertilizer Recommendations, Clemson Extension Services, Circular 476).

G. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring, for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include groundwater depth, operation flexibility, application frequency, type of animal manure and other animal by-products, size of manure utilization area, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and loading rate.

1. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

2. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the animal manure and other animal by-products applications based on the results of this monitoring data.

3. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

H. The Department may require manure to be treated for odor control (i.e., composting or lime stabilizing for dry operations) prior to land application if the manure is not incorporated into the soil at the time of land application or if odors exist or are suspected to exist at an undesirable level. Manure, which has a very undesirable level of odor before treatment, such as turkey manure, shall not normally be permitted to be land applied on land near residences without appropriate treatment for odor control.

400.70. Other Requirements.

A. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of animal manure and other animal by-products.

B. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a state approved source water protection area.

2. 303(d) Impaired Waterbodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or would adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area, an area where groundwater recharge may affect an aquifer.

C. If an adverse impact to the waters of the State₂ (including ephemeral and intermittent streams and groundwater.) from animal manure and other animal by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation R.61-68~~ or a significant adverse trend occurs, the Department may require the person responsible for the animal manure and other animal by-products to conduct an investigation to determine the extent of impact. The Department may require the person to remediate the water to within acceptable levels as set forth in ~~Regulation R.61-68~~.

D. Animal manure shall not be released to waters of the State₂ (including ephemeral and intermittent streams).

E. Animal medical waste shall not be land applied with animal manure and other animal by-products.

F. Animal manure and other animal by-products shall not be removed by a manure broker from a quarantined farm, until that quarantine has been lifted by the State Veterinarian.

G. Animal manure and other animal by-products that are quarantined for noxious weed seed contamination shall not be removed by a manure broker unless approved by Clemson Plant Industry.

H. When the Department determines that an undesirable condition exists, the broker/land applier shall take action to correct the undesirable condition to the degree and within the time frame designated by the Department.

400.80. Odor Control Requirements.

A. An odor abatement plan shall be included, which may consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;
2. Use of treatment processes for the reduction of undesirable odor levels;
3. Additional setbacks from property lines beyond the minimum setbacks given in this part;
4. Other methods as may be appropriate; or
5. Any combination of these methods.

B. Person(s) who transport, treat, store, or land apply manure and other animal by-products shall utilize Best Management Practices normally associated with the proper operation and maintenance of an animal manure and other animal by-products treatment or storage facility and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No person(s) who transport, treat, store, or land apply manure and other animal by-products may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is at an undesirable level.

~~D. After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. For an existing facility, if the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to the following:~~

~~E. The Department may require these abatement or control practices:~~

1. Remove or dispose of odorous materials;
2. Methods in handling and storage of odorous materials that minimize emissions;
 - a. Dry manure to a moisture content of fifty (50) percent or less;
 - b. Use disinfection to kill microorganisms present in manure;
 - c. Aerate manure;

- d. Compost solid manure and other animal by-products; and/or
 - e. Utilize ~~O~~odor ~~C~~ontrol ~~A~~dditives.
3. Prescribed standards in the maintenance of premises to reduce odorous emissions;
- a. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are utilized);
 - b. Plant trees around or downwind of the manure and other animal by-products storage and treatment facilities;
 - c. Incorporate manure and other animal by-products immediately, within twenty-four (24) hours after land application;
 - d. Select appropriate times for land application.
4. Best available control technology to reduce odorous emissions.

~~FE~~. If the permittee fails to control or abate the odor problems at a land application site to the satisfaction and within a time frame determined by the Department, the broker permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the ~~animal facility~~broker management plan, if necessary to provide a sufficient amount of land for manure utilization.

400.90. Vector Control Requirements.

A. A Vector Abatement Plan shall be developed for the dry animal manure and other animal by-products storage or treatment facility or land application areas, (if applicable). The Vector Abatement Plan shall at a minimum consist of the following:

- 1. Normal management practices used at the dry animal manure and other animal by-products storage or treatment facility to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.
- 2. A list of specific actions to be taken by the broker/land applicer if vectors are identified as a problem at the dry animal manure and other animal by-products storage or treatment facility or land application site. These actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.
- 3. If the broker is not performing land application, but is only transferring the manure to a person who is accepting responsibility for handling the manure in accordance with these regulations, the person accepting the manure shall be responsible for correcting any ~~nuisance~~ problems resulting from the land application of manure.

B. No broker/land applicer may cause, allow, or permit vectors to breed or accumulate in quantities that result in an ~~nuisance~~undesirable level, as determined by the Department.

~~C. After determining a vector problem exists, the Department shall require remediation of the problem to the satisfaction of the Department. For an existing broker/land applier, if the Department determines a vector problem exists, the Department may require these abatement or control practices, including, but not limited to, the following:~~

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;
2. Methods in handling and storage of materials that minimize vector attraction;
 - a. Compost solid manure;
 - b. Appropriately use vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);
 - c. Utilize traps, or electrically charged devices;
 - d. Utilize biological agents;
 - e. Utilize Integrated Pest Management; and/or
 - f. Incorporate manure and other animal by-products immediately, within twenty-four (24) hours after land application.
3. Prescribed standards in the maintenance of premises to reduce vector attraction;
 - a. Remove any standing water that may be a breeding area for vectors;
 - b. Keep storage and/or treatment facilities clean and free from trash or debris;
 - c. Properly use and service bait stations;
 - d. Keep grass and weeds mowed around the manure storage and/or treatment areas;
 - e. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
 - f. Conduct a weekly vector monitoring program;
 - g. Be aware of insecticide resistance problems, and rotate use of different insecticides; and/or
 - h. Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.
4. Utilize the best available control technology to reduce vector attraction and breeding.

400.100. Record Keeping.

A. A copy of the approved Broker/Land Applier Management Plan, including approved updates, and a copy of the permit(s) issued to the broker/land applier shall be retained by the permittee for as long as the broker is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. ~~However, if the facility was permitted prior to the effective date of this regulation, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.~~

C. Animal ~~m~~Manure Records. These records shall be kept for ~~four~~five (5) years. The records shall include the following:

1. Name, address, email, county, and phone number of all producers from whom the broker/land applier purchases or accepts animal manure;
2. Sampling results for the animal manure;
3. Amount (in tons) of animal manure obtained from each producer; and
4. Date of transfer.

D. All completed Manure Transfer contracts, including soil analysis results, between the broker and the person(s) purchasing or accepting animal manure, shall be kept by the broker for eight (8) years.

E. All records retained by the broker/land applier shall be kept at an appropriate business office, or other location, as approved by the Department.

F. All records retained by the broker/land applier shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

400.110. Reporting.

A. The Department may establish reporting requirements in permits as it deems appropriate. These reporting requirements may include the following:

1. Manure Balance Sheet. Listing the producer/farm name and amount (tons) of manure provided and a listing of all person(s) who bought or accepted animal manure and the amount (tons) accepted. Any manure that is currently in storage or treatment structures at the broker/land applier facility shall be accounted for in this report.

B. The Department may require on a case-by-case basis any of the required records, as outlined in section 400.100, to be reported on an annual basis.

400.120. Training Requirements.

A. An owner/operator of a manure brokering/land applying business shall be trained and certified on the operation of animal manure management under the poultry version of the certification program created and operated by Clemson University (CAMM). The certification shall be obtained within one (1) year of the effective date of the issued permit.

B. The certification program shall be completed by owners/operators of existing brokerage/land applier businesses within one (1) year of the effective date of this regulation or of a transfer of ownership approval.

~~B-C.~~ Failure to obtain the ~~training~~ certification and education as provided in this Section shall be deemed a violation of this ~~R~~regulation and a violation of the permit.

400.130. Violations.

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

PART 500 INTEGRATOR REGISTRATION PROGRAM.

- ~~500.10. General.~~
- ~~500.20. Submittal Requirements.~~
- ~~500.30. Certificate of Integrator Registration.~~
- ~~500.40. Reporting.~~
- ~~500.50. Other Requirements.~~
- ~~500.60. Violations.~~

500.10. General.

A. The Department encourages Integrators to be involved with the permitting and compliance of their growers.

B. The Department encourages Integrators to assist growers in the disposal of dead animals and the proper utilization of animal manure.

C. Integrating companies shall inform each prospective grower that they are required by State law to obtain a permit to construct and an approval to operate from the Department, and a certification of construction from the engineering company or NRCS. The Department recommends that growers verify an exemption status from the Department prior to construction of an agricultural animal facility.

500.20. Submittal Requirements.

A. Each integrating company that contracts with animal producers that operate facilities located within the State shall submit to the Department a Request for Registration form, as provided by the Department. The integrator shall work with the Department to identify growers that are unpermitted. The Department may schedule an annual inspection in order to review grower lists and identify unpermitted farms. The integrator shall provide the Department any additional information needed to contact unpermitted growers contracting with their company. ~~Existing Integrators or integrating companies shall submit a request form to the Department no later than one year after the effective date of these regulations.~~

B. Animal Manure Analysis Information. If the producers that contract with the integrator use the same feed rations and have dry animal manure analyses that come out to be consistently the same, they may qualify to use one (1) analysis for their individual testing requirement. However, if any of these producers utilize a different feed ration, utilize a significant amount of medications as compared to the others, or use any other inconsistent bedding materials, animal manure treatments or vector treatments, they shall be required to run a separate and individual analysis on their animal manure. The Integrator is responsible for

notifying the Department of any significant feed composition changes. This benefit shall not be available to liquid manure handling systems, since other factors specific to each site, such as rainfall, could affect the nutrient analysis of the manure.

C. If an integrating company can certify through general feed composition reports that a certain constituent, such as arsenic, is not present in their feed or medications, the producers that contract with that integrator may be exempt from testing for that constituent. The integrator shall submit a written request, along with general feed composition reports, and a list of growers who are using this feed ration. The Department shall approve this report in writing before the constituent can be removed from the analysis requirements. Each grower who is included in this exemption shall be notified in writing by the Department.

D. Swine Integrators must submit a plan addressing cumulative environmental and public health impacts of their contracted facilities with their first request for integrator certification. The plan must cover the integrator's existing contract growers and the projected three (3) year increase in the number of permitted facilities and swine. The plan must include:

1. The general area served by the integrator;
2. The number of existing swine facilities under contract;
3. The number of swine grown (broken down by facility);
4. The number of projected new facilities (broken down by facility size) with the total number of swine;
5. The integrating company's: procedures, protocols, policies, programs, required manure treatment and utilization technologies, etc. to ensure the cumulative impacts from their contracted facilities do not cause any adverse impact to the environment or public health; and
6. An assessment of the adverse environmental or public impact, if any, from the existing and proposed swine facilities under contract with the integrator.

~~E.7.~~ The Swine Integrator must also provide to the Department any other supplemental information that may reasonably be required by the Department to assess cumulative adverse environmental or public health impacts.

~~E.8.~~ The environmental and public health impact assessment plan must be approved by the Department before integrator certification can be granted. Once approved, the integrator may update the plan at any time. Also, the Department may require the plan be updated from time to time.

~~E.~~ All permits for growers under contract with the integrator must be in accordance with the integrator's approved plan.

F. All integrators are required to submit, on an annual basis by December 31st of each year, a list of active and inactive growers that have been added and/or released from their contracts.

500.30. Certificate of Integrator Registration.

A. The Department shall issue a certificate of integrator registration to integrators or integrating companies that meet all the requirements of this part.

B. All integrators or integrating companies shall hold a valid certificate of registration to operate in the State.

C. Certificates of integrator registration issued under this part do not have any administrative procedures for public notice under these regulations.

D. The certificate of integrator registration may be modified, revoked, or reissued if the requirements of this part are not met by the integrator or integrating company.

500.40. Reporting.

A. The Department may establish reporting requirements for integrators as it deems appropriate. These reporting requirements may include the following:

1. General feed composition reports. Feed composition reports provided in accordance with this section shall be exempt from disclosure under the Freedom of Information Act; and

2. A list of any special treatments or chemicals added to the manure or manure storage structure that are required by the integrator.

500.50. Other Requirements.

A. An integrator or integrating company shall not knowingly provide animals to an animal facility that does not hold a valid agricultural permit and an approval to operate from the Department. Any existing, unexpired contracts may be fulfilled, but the integrator may not renew the contract until the facility has obtained a valid permit and approval to operate. If an integrator knowingly provides animals to an animal facility that does not hold a valid permit, the Department may require the integrator to remove the animals from the facility and be subject to Part 500.60. ~~The Department shall allow a grace period of at least one year for existing unpermitted farms.~~

B. The integrator or integrating company shall take reasonable steps to ensure that the animal facilities that are under contract with the company are certified, trained, and educated on compliance with their permit to include the following:

1. Notify growers of their responsibility to update their Animal Facility Management Plan and permit if changes are made in the operation of the farm; and

2. Provide information on technical assistance to its growers on compliance and assist the producers in selecting a corrective action.

500.60. Violations.

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

~~Part 600. Severability~~

PART 600 **SEVERABILITY**

A. Should a section, paragraph, sentence, clause, phrase, or other part of this regulation be declared invalid for any reason, the remainder shall not be affected.

Fiscal Impact Statement:

The amendments have no substantial fiscal or economic impact on the state or its political subdivisions. There are no anticipated additional costs by the Department or state government due to any requirements of this regulation.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-43, Standards for the Permitting of Agricultural Animal Facilities.

Purpose: The Department amends R.61-43, Standards for the Permitting of Agricultural Animal Facilities, to incorporate statutory changes made by the General Assembly's passage of Act 139 of 2018, and to correct typographical errors, citation errors, and other errors and omissions. These amendments expand and clarify definitions applicable to agricultural animal facility regulations and standards, streamline permitting options, clarify reporting requirements, identify the Department's consistent noticing method, improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-43.

Legal Authority: 1976 Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.

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

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

The Department amends R.61-43 to adopt the changes of Act 139 that amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes. Since the above-referenced statutory provisions added and removed requirements currently contained in the R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, the regulation should be amended to reflect these changes.

The Department also makes amendments to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The amendments seek to simplify, clarify, and correct elements of the Department's agriculture animal facility permitting regulations while supporting the Department's goal of promoting and protecting the health of the public and the environment in an efficient and effective manner.

DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate an increase in costs to the state, its political subdivisions, or the regulated community resulting from these revisions. Changes to the public notice process will be a cost saving measure to the applicants and the Department. The changes are meant to create a more usable and functional regulation that will assist the regulated community and the citizens of South Carolina.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These amendments seek to provide continued state-focused protection of the environment and public health.

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

If these revisions are not implemented, R.61-43 will not include the policy initiatives advanced by Act 139.

Statement of Rationale:

The Department amends R.61-43, Standards for the Permitting of Agricultural Animal Facilities, to incorporate statutory changes made by the General Assembly's passage of Act 139 of 2018 and to correct typographical errors, citation errors, and other errors and omissions. These amendments expand and clarify definitions applicable to agricultural animal facility regulations and standards, streamline permitting options, clarify reporting requirements, identify the Department's consistent noticing method, improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-43.

ATTACHMENT B

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

Document No. 4886

R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*

As of the September 23, 2019, close of the Notice of Proposed Regulation comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Dave Wicker, Fieldale Farms	Definitions	Add the word “manure” to the “Animal Facility Management Plan” name.	Not adopted. The plan encompasses more than just manure; therefore the name remains as is.
Dave Wicker, Fieldale Farms	Definitions Throughout document	Change the term from “agricultural facility” to “producer” to be consistent with terms in the regulations.	Adopted. This will include all who produce waste.
Dave Wicker, Fieldale Farms	Definitions	Change “Certificate of Construction” to “Certificate of Completion.”	Not adopted. The form required is a “Certificate of Construction” from the engineer.
Ethan Ware, Williams Mullin Law Firm	Definitions	“Critical Habitat” add “as designated by U.S. Endangered Species Act and the South Carolina Department of Natural Resources.”	Adopted. Change has been made.
Ethan Ware, Williams Mullin Law Firm	Definitions	Add the word “air” before emission in the definition for “Discharge.”	Adopted. Change has been made.
Ken Martin and Dave Wicker, Fieldale Farms	Definitions	Do not like the use of the term “Inactive Facility”; keep permits active for future use.	Not adopted. If the farm is not being used actively for raising animals, then the farm should be considered inactive and the permit terminated.

Dave Wicker, Fieldale Farms	Definitions	Change “Manure Application Rate” to include “rate of manure in tons/acre applied to land at agronomic rates.”	Adopted. Change has been made using similar language.
Dave Wicker, Fieldale Farms	Definitions	Remove the term “section” and add “part of a plot of land” to the term “Mass Burial Site,” as the word “section” is defined as an area of one square mile.	Adopted. Change has been made.
Ethan Ware, Williams Mullin Law Firm	Definitions and throughout Document	Remove the definition and replace the term “Nuisance” with acceptable language to avoid comparison with the nuisance laws of South Carolina.	Adopted. Change has been made.
Ethan Ware, Williams Mullin Law Firm	Definitions	Redefine the term “Outstanding Recreational of Ecological Resource Waters.”	Not adopted. This term is defined using the same term as found in R.61-68, Water Classifications and Standards, for consistency with other Department regulations.
Ken Martin and Dave Wicker, Fieldale Farms	Definitions	Add the word “annual” to the Rolling Average definition.	Agreed and the change has been made
Charleston Laffin, Poultry Federation	Definitions	Prefer to use the term Class I, Class II, and Class III, instead of small, large and X-large for size of facilities.	Not adopted. These terms are consistent with other Department regulations.
Ken Martin and Dave Wicker, Fieldale Farms	200.10.D.1	Keep the term “closed” in the language, as opposed to the new proposed term “inactive.” “The only change was on the use of the term “inactive Farm” we would want to be able to place back in a reasonable time such as 5 years after the facility became inactive. At times, due to bankruptcies, banks cannot obtain possession of a farm for 2 years and may take another year to resell the farm. We do not want the banks to be unable to sell the facility due to the farm being unpermissible.”	Not adopted. The term “inactive” as defined is appropriate for this part of the regulation. The terms “closed” and “inactive” have been better defined in the proposed changes for the regulation.
Ethan Ware, Williams Mullin Law Firm	200.70.F.2	Capitalize the word “receptor” to match the definition.	Adopted. Change has been made.
Gary Spires, Farm Bureau	200.90.B	Keep original language from making a change from 25 yr/24 hr storm event to 50 years or 1 ½ feet of freeboard to 2 feet of freeboard without science or Statutes, set precedent.	Adopted. Changes have been made to match the swine part of the regulations for lagoons.

Dave Wicker, Fieldale Farms	200.150.E	Remove the word swine.	Adopted. Change has been made.
Dave Wicker, Fieldale Farms	200.160.B	Add Broker/Land Applier language to be consistent and show responsibility.	Adopted. Change has been made.
Dave Wicker, Fieldale Farms	Definitions	Definition of mg/l and $\mu\text{g/l}$ are universal definitions and do not need to be defined.	Adopted. Definitions have been deleted. Terms were not used in the regulation.

Date: December 12, 2019

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

From: Office of Ocean and Coastal Resource Management

Re: Public Hearing for Notice of Final Regulation Amending R.30-1, *Statement of Policy*, and R.30-14, *Administrative Procedures*, Document No. 4897

I. Introduction

The Office of Ocean and Coastal Resource Management (“OCRM”) proposes the attached Notice of Final Regulation amending R.30-1, *Statement of Policy*, and R.30-14, *Administrative Procedures*. Legal authority resides in S.C. Code Sections 48-39-50 and 48-39-280, which require the Department to establish and review the position of the state’s beachfront jurisdictional baselines and setback lines every seven (7) to ten (10) years. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

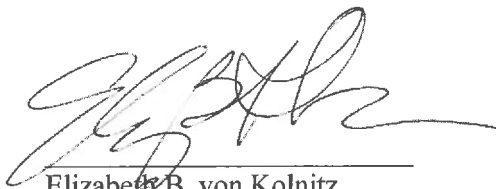
II. Facts

1. OCRM proposes amending R.30-1.D(43) and R.30-14.E., F., and G. to incorporate state statutory changes. Act 173 of 2018, the Beachfront Management Reform Act, establishes the position of the jurisdictional baselines and setback lines for the 2018 establishment cycle. The purpose of the jurisdictional lines is to delineate the extent of the Department’s direct permitting authority for activities within the defined beaches and beach/dune system critical areas. Section 8 of the Act requires the Department to promulgate regulations in order to implement provisions of the Act, which includes regulations the Department will use to establish the jurisdictional lines and locate a primary oceanfront sand dune.
2. The Department convened a Beachfront Jurisdictional Line Stakeholder Workgroup (Workgroup) in 2018 to provide input into this process. The Workgroup was composed of thirteen (13) members representing local governments and community associations, the real estate community, academic institutions, private-sector consultants, and non-profit organizations. The Workgroup was charged with providing recommendations to the Department for implementing future jurisdictional line review processes.
3. The Department had a Notice of Drafting published in the April 26, 2019, *State Register*. The Department received no public comments during the Notice of Drafting comment period.
4. OCRM conducted three (3) informational forums to provide the public with the opportunity to discuss the process and outcomes of the Beachfront Jurisdictional Line Stakeholder Workgroup. Forums were held in Myrtle Beach, Charleston, and Hardeeville/Bluffton on July 10, 11, and 18, 2019, respectively.
5. The amendments proposed herein are based on final recommendations of the Workgroup and associated public engagement and input. The amendments provide clarity and standards to be utilized in the establishment of the state’s beachfront jurisdictional lines. The amendments also modify specific procedures related to appeals and movement of the jurisdictional lines to comply with Act 173 and Coastal Zone Critical Areas, Act 197 of 2016.
6. Appropriate Department staff conducted an internal review of the proposed amendments on August 16, 2019.

7. The Department had a Notice of Proposed Regulation published in the September 27, 2019, *State Register*. The Department received public comments from one (1) organization by the October 28, 2019, close of the public comment period. Attachment B presents a summary of this public comment received and the Department's response.

III. Request for Approval

The Office of Ocean and Coastal Resource Management respectfully requests the Board to find need and reasonableness of the attached proposed amendments of R.30-1, *Statement of Policy*, and R.30-14, *Administrative Procedures*, for submission to the General Assembly.



Elizabeth B. von Kolnitz
Bureau Chief, OCRM


Myra C. Reece
Director, Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

ATTACHMENT A

**STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.30-1, *Statement of Policy*, and R.30-14, *Administrative Procedures***

December 12, 2019

Document No. 4897

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30**

Statutory Authority: 1976 Code Sections 48-39-10 et seq.

30-1. Statement of Policy.

30-14. Administrative Procedures.

Synopsis:

The Department of Health and Environmental Control (“Department”) is amending R.30-1.D(43) and R.30-14.E., F., and G. to incorporate state statutory changes. The Beachfront Management Reform Act, Act 173 of 2018 (“Act”), establishes the position of the jurisdictional baselines and setback lines for the 2018 establishment cycle. The purpose of the jurisdictional lines is to delineate the extent of the Department’s direct permitting authority for activities within the defined beaches and beach/dune system critical areas. Section 8 of the Act requires the Department to promulgate regulations in order to implement provisions of the Act, which includes regulations the Department will use to establish the jurisdictional lines and locate a primary oceanfront sand dune.

The Department convened a Beachfront Jurisdictional Line Stakeholder Workgroup in 2018 to provide input into this process. The amendments are based on final recommendations of the Workgroup and associated public engagement and input. The amendments provide clarity and standards to be utilized in the establishment of the state’s beachfront jurisdictional lines. The amendments also modify specific procedures related to appeals and movement of the jurisdictional lines to comply with Act 173 and Coastal Zone Critical Areas, Act 197 of 2016.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

Instructions:

Amend Coastal Regulations 30-1, Statement of Policy, and 30-14, Administrative Procedures, pursuant to each individual instruction provided with the text below.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

30-1. Statement of Policy.

30-14. Administrative Procedures.

Statutory Authority: S.C. Code Sections 48-39-10 et seq.

Revise 30-1.D(43), definition of “Primary Oceanfront Sand Dunes” to read:

(43) Primary Oceanfront Sand Dunes - those dunes ~~which that~~ constitute the front row of dunes adjacent to the Atlantic Ocean, ~~are partially or wholly seaward of the setback line, are not landward of an existing functional erosional control device, and~~ For the purposes of establishing the jurisdictional baseline, the dune must have a minimum height of thirty-six (36) inches, as measured vertically from the crest to the seaward toe to the crest of the dune. For purposes of establishing the baseline, this dune must also ~~The dune must also form a nearly continuous line dune ridge for 500 shore parallel feet and may exhibit minimal breaks such as those resulting from pedestrian or emergency vehicle access points. This dune typically exhibits the presence of stable, native vegetation, and is not scarped, eroded, or overtopped by the highest predicted astronomical tides. However, this dune may be inundated by storm surge which normally accompanies major coastal storm events.~~

Revise R.30-14.E to read:

E. Procedures for Adopting Baselines and Erosion Rates (Section 48-39-280) Setback Lines.

~~(1) Following the establishment of the interim baselines, erosion rates, and setback lines pursuant to Section 48-39-280(C) and any amendments or revisions thereto, the Department will adopt final baselines, erosion rates, and setback lines as part of the state comprehensive beach management plan pursuant to Section 48-39-320. The following procedure will be used for the establishment of final baselines, erosion rates, and setback lines:~~

~~(a) The proposed baseline, erosion rate, and setback line for a region, island or part thereof, or other geographic area of South Carolina's ocean shoreline shall be made available to the public for inspection at each of the Department's offices;~~

~~(b) the Department shall afford the public a thirty-day comment period;~~

~~(c) the Department shall afford the opportunity for a public hearing.~~

~~(2) The Department shall, following the consideration of all public comments, adopt in final form the baselines, erosion rates, and setback lines and shall include such information in the state plan.~~

(1) The Department must establish baselines and setback lines for all geographic areas where baselines and setback lines were established on or before January 31, 2012. The baselines and setback lines must be established anew during establishment cycles that are not less than every seven (7) years, but not more than every ten (10) years following a previous establishment cycle and must be based upon the best available data. Until the Department establishes new baselines and setback lines for a geographic area, the existing baselines and setback lines for the geographic area must be used.

(2) In each new establishment cycle of the baselines and setback lines, the Department must:

(a) stagger the establishment of the baselines and setback lines by geographic area and provide a tentative schedule of establishment for each geographic area on the Department's website at least one hundred twenty (120) days prior to beginning a new establishment cycle;

(b) publish proposed locations of baselines and setback lines for a geographic area on the Department's website for public input at least one hundred twenty (120) days prior to establishing the baselines and setback lines for the geographic area;

(c) on the date of the publication of the proposed locations of baselines and setback lines for a geographic area:

(i) provide notice of the publication in a newspaper of general statewide circulation and a newspaper of local circulation in the geographic area; and

(ii) make readily available to the public, including on the Department's website, the information and raw data that the Department used to determine the locations of the proposed baselines and setback lines and explanations for these determinations;

(d) hold at least one (1) public hearing in the county or municipality of a geographic area at least ninety (90) days prior to establishing the baselines and setback lines for the geographic area; and

(e) accept and review data up to thirty (30) days prior to establishing baselines and setback lines for a geographic area to determine if a proposed baseline or setback line for the geographic area should be revised.

(3) Upon the publication of the tentative schedule established under R.30-14.E(2)(a), a municipality, county, agency, or organization undertaking a beach renourishment project may submit a request to the Department, within the one hundred twenty (120)-day notice period, to revise the establishment date for the baseline and setback line in its geographical area. The Department may revise the establishment schedule if submitted information demonstrates the following:

(a) the municipality, county, agency, or organization has an issued Department permit in effect for a beach renourishment project, or an issued Department coastal zone consistency certification associated with a federal beach renourishment project;

(b) the request does not extend the establishment date outside of the establishment cycle timeframe set forth by R.30-14.E(1);

(c) the municipality, county, agency, or organization has encumbered funds to complete the beach renourishment project; and

(d) the municipality, county, agency, or organization will start construction of the beach renourishment project within one (1) year of the initiation of the new establishment cycle.

(4) If the construction of the qualifying beach renourishment project under R.30-14.E(3)(d) has not started within one (1) year of the initiation of the new establishment cycle, the Department must establish the baselines and setback lines using the best available scientific and historical data within the required timeframes under R.30-14.E(1).

Delete the text of R.30-14.F and reserve section to read:

F.-Procedures for Appealing Baselines and Erosion Rates [Section 48-39-280(E)].

~~(1) Any landowner claiming ownership of affected property who feels that the final or revised setback line, baseline, or erosion rate as adopted is in error, upon submittal of substantiating evidence, within one year of the revision date, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. The Department shall hear all requests for review. The process is as follows:~~

~~(a) Upon receipt of a property owner's request for review of the setback, baseline, or erosion rate, a request will be made of the property owner to provide the Department with substantiating evidence, as required in Section 48-39-280(E). If the property owner does not respond or if there is no evidence at all to support the request, a letter will be sent to the property owner denying the request.~~

~~(b) If the Department agrees with the property owner that the lines are in error, the lines will be moved.~~

~~(c) If the Department disagrees with the property owner, and believes that the location of the lines is correct, the property owner will be notified in writing. Any appeal of the Department's decision under this section shall be made to the Administrative Law Judge Division.~~

~~(2) Appeals are governed by R.30-6. [Reserved]~~

Delete the text of R.30-14.G and reserve section to read:

G. Procedure for Movement of Baseline After Renourishment.

~~(1) The Department must receive a petition from the local government, or the landowners with notice to the local government, before the baseline can be moved pursuant to Section 48-39-280(A)(4). The petition cannot be submitted until the permitted beach nourishment project, which must have a minimum five-year design life, has been completed. The local government must certify to the Department that the proposal to move the baseline is consistent with the objectives and policies of its local comprehensive beachfront management plan.~~

~~(2) Petitioner must demonstrate an ongoing commitment to fund a future renourishment project with the same or greater design life than the original project using an acceptable funding option.~~

~~(3) The Petitioner must prove that it possesses or has obtained all necessary legal authority to perform the nourishment project in the future, excluding environmental regulatory permits.~~

~~(4) Petitioner must submit survey data in the following format to demonstrate the beach has been stabilized by the nourishment project:~~

~~(a) A minimum of three sets of survey data from the stations (monuments) designated in the project permit must be submitted. This will include all stations within the construction limits (maximum allowable profile spacing is 1,000 feet) and stations within 2,000 feet of each end of the project. These surveys will be taken at three-month intervals, beginning at the time of project construction completion.~~

~~(b) Semi-annual surveys of the project beach during years two and three after project construction must be performed and submitted to the Department to document beach stability.~~

~~(5) The Department will evaluate the survey data to determine beach stability. Stability is defined in (10) below. If the beach has not stabilized in the first six months following construction, additional subsequent surveys will be evaluated to determine stability.~~

~~(6) The project must be constructed according to the permit design at an elevation which will maintain a dry-sand beach. The maintenance of the dry-sand beach will be evaluated in the same manner as stability, using the survey data.~~

~~(7) The Petitioner must show an ongoing financial commitment to renourishment which will stabilize and maintain the dry sand beach at all stages of the tide for the foreseeable future. The Department defines foreseeable future as at least ten years from the date the original project achieved stability.~~

~~(8) The Department will move the baseline when all of the above criteria have been met. The new baseline will be located on the landward edge of the existing erosion control device or at a position determined by the Department using the method described in Section 48-39-280(A)(1).~~

~~(9) No new construction may occur in the area between the former baseline and the new baseline for three years after the initial beach nourishment project has been completed, unless allowed by special permit. The project is “completed” when it has stabilized in the manner described in (10) below. Reconstruction of habitable structures and pools is not considered new construction for purposes of this section. Additions are considered new construction.~~

~~(10) The following definition will be used by the Department to define “stability”: A renourished beach is stabilized when field observations and quarterly surveys of the project beach, conducted for a minimum of six months following construction completion, demonstrate only normal long-term erosion patterns and losses are affecting the nourished beach. The Department may consider any or all of the following in determining stability: profile characteristics and changes (volumetric and contour changes) and sediment analyses. [Reserved]~~

Fiscal Impact Statement:

The Department estimates no additional cost incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of this amendment. The Department will use existing staff and resources to implement these amendments.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 30-1, Statement of Policy, and 30-14, Administrative Procedures.

Purpose: The Department is amending R.30-1.D.(43) and R.30-14.E., F., and G. to incorporate state statutory changes. The Beachfront Management Reform Act, Act 173 of 2018 (“Act”), requires the Department to establish, based on best available data, the position of baselines and setback lines during establishment cycles not less than every seven (7) years and not more than every ten (10) years following a previous establishment cycle. The purpose of these jurisdictional lines is to delineate the extent of the Department’s direct permitting authority for activities within the defined beaches and beach/dune system critical areas. Section 8 of the Act requires the Department to promulgate regulations for implementation, including provisions to locate a primary oceanfront sand dune. The amendments provide clarity and standards to be utilized in the establishment of the state’s beachfront jurisdictional lines. The amendments also modify specific procedures related to appeals and movement of the jurisdictional lines to comply with Act 173 and Coastal Zone Critical Areas, Act 197 of 2016.

Legal Authority: 1976 Code Sections 48-39-10 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee

from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department is amending R.30-1.D.(43) and R.30-14.E., F., and G. to incorporate state statutory changes. The Department convened a Beachfront Jurisdictional Line Stakeholder Workgroup in 2018 to provide input into this process. The amendments are based on final recommendations of the Workgroup and associated public engagement and input. The amendments modify specific procedures related to appeals and movement of the jurisdictional lines to comply with Act 173 and Coastal Zone Critical Areas, Act 197 of 2016.

The amendments are reasonable and necessary to manage the long-term health and sustainability of the state's beaches and beach/dune systems while providing sufficient public input into Department decisions. The amendments also clarify existing regulations to better enable Department staff to more effectively implement the stated policies of the Act.

DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate additional cost to the state resulting from administration of these proposed amendments. Benefits to the state include improved management of coastal resources through increased clarity of the regulations. The Department does not anticipate additional cost to the regulated community as a result of these amendments.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments seeks to benefit the environment by providing more clarity to the Department's Coastal Division statutory directives to manage the state's beaches and beach/dune critical areas for its citizens. These amendments refine the Department's processes for establishing the state's direct regulatory jurisdiction along the beach and within the beach/dune system. The amendments also provide more clarity to those seeking to utilize these resources.

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

There is no anticipated detrimental effect on the environment and/or public health if these amendments are not implemented beyond not benefiting from the amendments' implementation. Implementation of these amendments seeks to benefit the environment by providing more clarity to the Department's Coastal Division statutory directives to manage the state's beaches and beach/dune critical areas for its citizens.

Statement of Rationale:

The Department is amending R.30-1.D.(43) and R.30-14.E., F., and G. to incorporate state statutory changes. The Beachfront Management Reform Act, Act 173 of 2018 ("Act"), requires the Department to establish, based on best available data, the position of baselines and setback lines during establishment

cycles not less than every seven (7) years and not more than every ten (10) years following a previous establishment cycle. Section 8 of the Act requires the Department to promulgate regulations for implementation, including provisions to locate a primary oceanfront sand dune. The amendments provide clarity and standards to be utilized in the establishment of the state's beachfront jurisdictional lines. The amendments also modify specific procedures related to appeals and movement of the jurisdictional lines to comply with Act 173 and Coastal Zone Critical Areas, Act 197 of 2016.

ATTACHMENT B

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

Document No. 4897

R.30-1, Statement of Policy, and R.30-14, Administrative Procedures

As of the October 28, 2019, close of the Notice of Proposed Regulation comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
South Carolina Beach Advocates	All	The South Carolina Beach Advocates are comfortable with the proposed regulatory amendments related to beachfront jurisdictional lines provided legislation is supported by OCRM to add language for the “no dune” and the “way back dune” scenarios as proposed by the workgroup.	The Department has adopted the recommended changes that were presented by the Beachfront Jurisdictional Line Stakeholder Workgroup that we currently have statutory authority to implement in the current proposed regulatory amendments. Some recommendations that were made by the Stakeholder Workgroup would require statutory amendments before they could be adopted.

Date: December 12, 2019

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

From: Bureau of Environmental Health Services

Re: **Public Hearing for Notice of Final Regulation Amending R.61-32, *Soft Drink and Water Bottling Plants*, and Repealing R.61-54, *Wholesale Commercial Ice Manufacturing*, Document No. 4903**

I. Introduction

The Bureau of Environmental Health Services ("Bureau") proposes the attached Notice of Final Regulation amending R.61-32, *Soft Drink and Water Bottling Plants*, revising and merging the requirements of R.61-54, *Wholesale Commercial Ice Manufacturing*, into R.61-32, and repealing the existing R.61-54. Legal authority resides in 1976 Code Sections 44-1-140 and 44-1-150, which enables the Department of Health and Environmental Control ("Department") to promulgate regulations for the operation of bottling plants and similar businesses. Furthermore, Section 44-1-150 allows for the enforcement of orders related to violations of these regulations. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments and repeal.

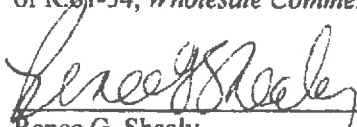
II. Facts

1. The purpose of R.61-32, *Soft Drink and Water Bottling Plants*, and R.61-54, *Wholesale Commercial Ice Manufacturing*, is to safeguard public health and provide consumers safe, unadulterated soft drinks, bottled water, and wholesale ice products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of soft drinks, bottled water, and wholesale ice products. The current regulations are based on Title 21, *Food and Drugs*, Part 110, *Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food* of the Code of Federal Regulations (CFR) (21 CFR Part 110), which has now been replaced by 21 CFR Part 117, *Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls For Human Food*. The new federal regulation updates good manufacturing processes and incorporates new preventive controls for minimizing or preventing food safety hazards.
2. The Bureau proposes amending the provisions of R.61-32 and R.61-54 to incorporate standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing manufactured water-based products into one streamlined regulation, instead of two separate regulations with repetitive content. To achieve this more functional, streamlined regulation, the Department is repealing R.61-54 and combining its revised provisions into R.61-32. This also includes amending the title of R.61-32 to "*Wholesale Bottled Water, Soft Drinks, and Ice Manufacturing*." The amendments included in the Notice of Final Regulation also include other changes not required by federal law, such as additions, updates, and clarifications to administrative requirements, enforcement requirements, and definitions, as well as other changes deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation.
3. The amendments to these regulations serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. In addition to clarification and updating of state-specific regulatory provisions, these amendments incorporate current federal standards, which have replaced preexisting federal standards upon which the Department's existing, unrevised regulations are based. This serves to reduce administrative burdens on the regulated community by facilitating streamlined inspections and compliance under both state and federal requirements.

4. The Department had a Notice of Drafting published in the April 26, 2019, *State Register*.
5. The Bureau held a stakeholder meeting on July 24, 2019, in Columbia. The Bureau emailed information for meeting attendance to all permitted facilities, along with a proposed draft of the regulation to facilitate discussion. The Department also posted the information and draft regulation on the DHEC Manufactured Food web page to reach as broad an audience as possible.
6. Appropriate Department staff conducted an internal review of the proposed amendments and repeal on July 29, 2019.
7. The Department had a Notice of Proposed Regulation published in the September 27, 2019, *State Register*. The Department received no public comments by the October 28, 2019, close of the public comment period.
8. The Bureau held an additional stakeholder meeting on October 9, 2019, in Columbia. The Bureau emailed information for meeting attendance to all permitted facilities, along with a copy of the proposed regulation to facilitate discussion. The Department also posted the information and proposed regulation on the DHEC Manufactured Food web page to reach as broad an audience as possible.

III. Request for Approval

The Bureau of Environmental Health Services respectfully requests the Board to find need and reasonableness of the attached amendment of R.61-32, *Soft Drink and Water Bottling Plants*, and the repeal of R.61-54, *Wholesale Commercial Ice Manufacturing*, for submission to the General Assembly.



Renee G. Shealy

Chief, Bureau of Environmental Health Services



Myra E. Reece

Director, Environmental Affairs

Attachment:

A. Notice of Final Regulation

ATTACHMENT A

**STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.61-32, *Soft Drink and Water Bottling Plants*, and R.61-54, *Wholesale Commercial Ice
Manufacturing*.**

December 12, 2019

Document No. 4903

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-1-140 and 44-1-150

61-32. Soft Drink and Water Bottling Plants.

61-54. Wholesale Commercial Ice Manufacturing.

Synopsis:

The purpose of R.61-32, *Soft Drink and Water Bottling Plants*, and R.61-54, *Wholesale Commercial Ice Manufacturing*, is to safeguard public health and provide consumers safe, unadulterated soft drinks, bottled water, and wholesale ice products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of soft drinks, bottled water, and wholesale ice products. The regulations are based on Title 21, Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food of the Code of Federal Regulations (21 CFR Part 110).

The Department of Health and Environmental Control (Department) last amended R.61-32 in 2004 and R.61-54 in 2008. Earlier this year, 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, was replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. There have been numerous changes in the manufactured food and beverage industry, including changes to food and beverage handling practices, food and beverage equipment technology, and food and beverage preparation processes, making R.61-32 and 61-54 outdated. The new federal regulation updates good manufacturing processes and incorporates new preventive controls for minimizing or preventing food safety hazards.

The Department is amending the provisions of R.61-32, *Soft Drink and Water Bottling Plants*, and R.61-54, *Wholesale Commercial Ice Manufacturing*, to incorporate standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing manufactured water-based products into one streamlined regulation, instead of two separate regulations with repetitive content. To achieve this more functional, streamlined regulation, the Department is repealing R.61-54 and combining its revised provisions into R.61-32. This also includes amending the title of R.61-32 to “Wholesale Bottled Water, Soft Drinks, and Ice Manufacturing.” The amendments also include other changes not required by federal law, including additions, updates, and clarifications to administrative requirements, enforcement requirements, and definitions, as well as other changes deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation. These changes include stylistic changes such as corrections for clarity and readability, grammar, punctuation, references, codification, and overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

Instructions:

Replace R.61-32 in its entirety with this amendment. Repeal R.61-54 in its entirety from the South Carolina Code of Regulations.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

~~61-32. Soft Drink And Water Bottling Plants.~~

~~(Statutory Authority: S.C. Code Ann. Sections 44-1-140(4); 1-23-10; 1-23-110 (1976, as amended))~~

~~CONTENTS:~~

~~SECTION I. PURPOSE.~~

~~SECTION II. SCOPE.~~

~~SECTION III. DEFINITIONS.~~

~~SECTION IV. PERSONNEL.~~

~~SECTION V. GROUNDS, BUILDINGS AND FACILITIES.~~

~~SECTION VI. EQUIPMENT AND UTENSILS.~~

~~SECTION VII. PRODUCTION AND PROCESS CONTROLS.~~

~~SECTION VIII. EXAMINATION AND COMDEMNATION OF UNWHOLESOME OR CONTAMINATED~~

~~RAW MATERIALS OR FINISHED PRODUCT.~~

~~SECTION IX. ENFORCEMENT PROCEDURES~~

~~SECTION I. PURPOSE~~

~~This regulation sets forth minimum health standards, procedures and practices to ensure that soft drinks and bottled waters, are manufactured in South Carolina in a safe and wholesome manner.~~

~~SECTION II. SCOPE~~

~~This regulation shall apply to all persons in South Carolina who manufacture or bottle soft drinks and bottled waters, sold for human consumption in South Carolina.~~

~~SECTION III. DEFINITIONS~~

~~ADEQUATE shall mean substantial compliance with acceptable health standards, procedures and practices.~~

~~ADULTERATED or ADULTERATION the presence or addition of any harmful or unwholesome substance, article, object, or other ingredients which may dilute or lower the quality of the beverage involved or any substance which is prohibited by law or regulation in a soft drink or bottled water.~~

~~APPROVED acceptable to the Department based on a determination as to conformance with applicable standards and good public health practice.~~

~~APPROVED LABORATORY~~—a laboratory approved by the Department or certified by the U.S. Environmental Protection Agency (EPA), or certified (accredited) by a third-party organization acceptable to the Department.

~~APPROVED SOURCE~~—when used in reference to a bottled water plant's product water or water used in the plant's operations, means the source of the water whether it be from a spring, artesian well, drilled well, public or community water system, or any other source that has been inspected and the water sampled, analyzed, and found of a safe and sanitary quality with or without treatment, and approved by the Department in accordance with Regulation 61-58, State Primary Drinking Water Regulations.

~~ARTESIAN WATER~~—bottled water from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer. Artesian water may be collected with the assistance of external force to enhance the natural underground pressure. On request, plants shall demonstrate to the Department that the water level stands at some height above the top of the aquifer.

~~BOTTLED WATER~~—water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. It does not include those food ingredients that are declared in ingredient labeling as “water,” “carbonated water,” “disinfected water,” “filtered water,” “seltzer water,” “soda water,” “sparkling water,” and “tonic water.”

~~BOTTLING~~—filling, capping, packaging or enclosing in containers.

~~BOTTLING PLANT~~—any establishment involved in the manufacturing or packaging of soft drinks and bottled waters.

~~BULK WATER~~—source water collected at an approved site remote from the bottling plant and transported to the bottling plant for further processing and bottling.

~~CODE OF FEDERAL REGULATION (CFR)~~—a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

~~CONTAINER~~—any material used for the packaging of soft drinks and bottled waters, whether of glass, plastic, metal, paper or any combination thereof.

~~DEMINERALIZED WATER~~—bottled water which is produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the United States Pharmacopoeia and specified by the U. S. Food and Drug Administration (FDA) in 21 CFR Section 165.110.

~~DEIONIZED WATER~~—bottled water that has been produced by a process of deionization and that meets the definition of “purified water” in the United States Pharmacopoeia and specified by the FDA in 21 CFR Section 165.110.

~~DEPARTMENT~~—the South Carolina Department of Health and Environmental Control acting through its authorized representatives.

~~DISTILLED WATER~~—bottled water which has been produced by a process of distillation and meets the definition of “purified water” in the United States Pharmacopoeia and specified by FDA in 21 CFR Section 165.110.

~~DRINKING WATER~~—water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents.

~~EASILY CLEANABLE~~—surfaces that are readily accessible and made of such materials and finishes and fabricated in such a way that residue may be effectively removed by normal cleaning methods.

~~EMPLOYEE~~—any person in a bottling plant engaged in the mixing of syrups, filling of containers, or any other capacity which brings them into contact with ingredients, containers, or equipment used in the manufacturing and packaging of soft drinks and bottled waters.

~~EQUIPMENT~~—all machinery, utensils, conveyors, containers, cases, and other articles used in the manufacturing of soft drinks and bottled waters.

~~FOOD~~—raw materials and ingredients.

~~FOOD CONTACT SURFACE~~—the surface of any object coming into direct contact with ingredients and finished products during storage and manufacture. This shall include any surface upon which the product routinely may drip, drain, or be drawn into, as part of normal processing.

~~GROUND WATER~~—water from a subsurface saturated zone that is under a pressure equal to or greater than atmospheric pressure. Ground water must not be under the direct influence of surface water.

~~MICROORGANISMS~~—mean yeast, molds, bacteria and viruses and include, but are not limited to, species having public health significance.

~~MINERAL WATER~~—bottled water containing not less than 250 parts per million (ppm) total dissolved solids (TDS), coming from a source tapped at one or more boreholes or springs, originating from a geologically and physically protected underground water source. Mineral water shall be distinguished from other types of water by its constant level and relative proportions of minerals and trace elements at the point of emergence from the source, due account being taken of the cycles of natural fluctuations. No minerals may be added to this water.

~~NATURAL WATER~~—bottled spring, mineral, artesian, or well water which is derived from an underground formation or water from surface water that only requires minimal processing, is not derived from a municipal system or public water supply, and is unmodified except for limited treatment (e.g., filtration, ozonation or equivalent disinfection process).

~~PERSON~~—any individual, plant operator, partnership, company, corporation, trustee, association, or a public or private entity.

~~PEST~~—any animals or insects including, but not limited to, birds, rodents, flies and larvae.

~~PURIFIED WATER~~—bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the United States Pharmacopoeia and specified by FDA in 21 CFR 165.110.

~~REMODELED~~—any enlarging, replacing of floors, walls or ceilings, or changing in any respect, the structure at which a soft drink or water bottling plant is housed; provided, however, this shall not apply to repainting or refinishing of floors or walls.

~~REVERSE OSMOSIS WATER~~—bottled water that is produced by a process of reverse osmosis and that meets the definition of “purified water” in the United States Pharmacopoeia and specified by FDA in 21 CFR 165.110.

~~SANITIZE~~—to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance.

~~SHALL~~—the item or condition discussed is mandatory.

~~SHOULD or MAY~~—the item or condition discussed is preferred but not mandatory.

~~SOFT DRINK~~—any nonalcoholic flavored carbonated beverage, soda or soda water, fruit juice, fruit drink, nonalcoholic still beverage, and seltzer or club soda.

~~SPARKLING BOTTLED WATER~~—bottled water that, after treatment and possible replacement of carbon dioxide, contains the same amount of carbon dioxide that it had at the emergence from the source. Manufacturers may add carbonation to previously noncarbonated bottled water products and label such water appropriately (e.g. sparkling spring water).

~~SPRING WATER~~—bottled water derived from an underground formation from which water flows naturally to the surface of the earth. Spring water must comply with the FDA standard of identity in 21 CFR 165.110.

~~STANDARD OF IDENTITY~~—the FDA Standard of Identity for bottled water as set forth in 21 CFR 165.110.

~~STANDARD OF QUALITY~~—the FDA Standards of Quality for bottled as set forth in 21 CFR 165.110.

~~STERILE WATER~~—bottled water that meets the requirements under “Sterility Tests” <71> in the current United States Pharmacopoeia and specified by FDA in 21 CFR 165.110.

~~UNDESIRABLE MICROORGANISMS~~—those microorganisms which are considered to be of public health significance, which subject food to decomposition, which indicate that food is contaminated with filth, or which otherwise may cause food to be adulterated.

~~WELL WATER~~—bottled water from a hole bored, drilled, or otherwise constructed in the ground which taps the water of an aquifer.

~~SECTION IV. PERSONNEL~~

~~A. DISEASE CONTROL~~

~~Any person who by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which may contribute to the reasonable possibility of food, food contact surfaces, or food packaging materials becoming contaminated, shall be excluded from any operations expected to result~~

in such contamination, until the condition is corrected. All personnel shall be instructed to report such health conditions to their supervisors.

~~B. CLEANLINESS~~

All persons working in direct contact with food, food contact surfaces, and food packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against contamination of food. Methods for maintaining cleanliness to prevent food contamination include, but are not limited to:

~~1. Wearing outer garments suitable for the operation in a manner that protects against the contamination of food, food contact surfaces, or food packaging materials.~~

~~2. Maintaining adequate personal cleanliness.~~

~~3. Washing hands thoroughly (and sanitizing, if necessary, to protect against contamination with undesirable microorganisms) in an adequate hand washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated. Signs shall be posted reminding employees to wash their hands before returning to work.~~

~~4. Removing all insecure jewelry or other objects which might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it should be covered by material that can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food contact surfaces, or food packaging materials.~~

~~5. Maintaining gloves used in food handling in an intact, clean, and sanitary condition. These gloves should be of an impermeable material.~~

~~6. Where appropriate, wearing in an effective manner, hairnets, headbands, caps, beard covers, or other effective hair restraints.~~

~~7. Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.~~

~~8. Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.~~

~~9. Taking any other necessary precautions to protect against contamination of food, food contact surfaces, or food packaging materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.~~

~~C. EDUCATION AND TRAINING~~

~~Personnel responsible for identifying sanitation failures or food contamination should have a background in education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles, and should be informed of the danger of poor personal hygiene and unsanitary practices.~~

~~D. SUPERVISION~~

Responsibility for ensuring compliance by all personnel with all requirements of this section shall be clearly assigned to competent supervisory personnel.

~~SECTION V. GROUNDS, BUILDINGS AND FACILITIES~~

~~A. GROUNDS~~

~~The grounds around a bottling plant under the control of the operator shall be kept in such condition to protect against the contamination of its products. The methods for adequate maintenance of grounds include, but are not limited to:~~

~~1. Properly storing equipment, removing litter and waste, and cutting weeds or grass in the immediate vicinity of plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests.~~

~~2. Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.~~

~~3. Adequately draining areas that may contribute to the contamination of food by seepage, foot borne filth, or providing a breeding place for pests.~~

~~4. Operating waste treatment and disposal systems in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.~~

~~B. BUILDING CONSTRUCTION AND DESIGN~~

~~Bottling plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food manufacturing purposes and to prevent drip and condensation from fixtures, ducts and pipes from contaminating foods, food contact surfaces or food containers. Sufficient space shall be provided for the placement of equipment and storage of materials as deemed necessary for the proper maintenance of sanitary operations and production of safe food. Bottling plants shall meet, but not be limited to, the following:~~

~~1. REQUIRED ROOMS~~

~~(a) Whenever ingredients are mixed, a separate room (commonly called a syrup or blend room) or separate area of the filling room shall be provided for this purpose. This room or separate area of the filling room shall be used only for mixing ingredients and storage of mixed batches.~~

~~(b) A separate room shall be provided for filling and sealing containers (commonly called a filling or bottling room). This room shall contain only necessary filling, sealing, electronic inspection, coding and labeling equipment. Only the exit end of the bottle washing machine shall open into this room through a tight fitting wall. If approved by the Department, the mixing of ingredients and storage of mixed batches can be conducted in this room.~~

~~2. FLOORS~~

~~(a) The floors of the syrup and filling rooms shall be constructed of concrete or equally impervious, easily cleanable material, and shall be kept clean, in good repair, and properly sloped to trapped drains to prevent pools of standing water after flushing. Integral coved juncture bases should be provided in these areas.~~

~~(b) The floors of storage, packaging and accessory rooms shall be easily cleanable, and be kept clean and in good repair at all times.~~

~~3. WALLS AND CEILINGS~~

~~(a) The walls and ceilings in the syrup and filling rooms shall be smooth, washable, light colored, and shall be kept clean and in good repair at all times. Lay-in ceiling tile panels may be used if they are designed to be easily removable for cleaning and replacement, as needed.~~

~~(b) The walls and ceilings of storage, packaging and accessory rooms or areas shall be of sound construction and kept clean and in good repair at all times.~~

~~4. LIGHTING~~

~~(a) Adequate lighting shall be provided in all areas of the plant. A minimum of 20 foot-candles of light should be provided in all working areas, and a minimum of 10 foot-candles in all storage areas.~~

~~(b) Adequate protection from glass breakage and falling debris shall be provided for all light bulbs and fixtures located over exposed food or unsealed containers in any step of preparation.~~

~~5. VENTILATION~~

~~(a) Adequate ventilation or control equipment shall be provided to minimize odors, vapors and moisture and to keep excessive carbon dioxide, ozone, and other processing gases, from accumulating in areas where soft drinks and bottled waters are manufactured.~~

~~(b) Pressurized ventilating systems shall have a filtered air intake.~~

~~(c) Fans and other air moving equipment shall be located and operated in a manner minimizing the potential for contaminating food and unsealed containers.~~

~~6. DOORS AND WINDOWS~~

~~(a) All openings into the syrup and filling rooms shall be adequately protected against the entrance of dust and insects by tight fitting, self-closing doors, closed windows, screening, air curtains, vinyl or rubber strip curtains, or by other means approved by the Department.~~

~~(b) Screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings into the syrup and filling rooms shall be tight fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the inch.~~

~~(c) Openings for conveyor lines into the filling room shall be as small as possible.~~

~~(d) Solid doors for the syrup and filling rooms shall be outward opening unless accompanied by selfclosing, outward opening screen doors.~~

~~C. SANITARY FACILITIES AND CONTROLS~~

~~Each bottling plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to, the following:~~

1. WATER SUPPLY

(a) The water supply shall be from a public water system approved by the Department.

(b) The design, operation and maintenance of water purification systems used to further treat potable water shall be approved by the Department. They shall not be operated beyond their rated capacity and shall be maintained in a clean, sanitary condition at all times. This shall include dispensed water vending machines.

(c) Potable running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the processing of soft drinks and bottled waters, for the cleaning of equipment, utensils, and containers, and for employee sanitary facilities.

(d) Carbonated water shall be conveyed in approved stainless steel or equal food-grade piping and not in piping of galvanized iron, lead, zinc, or other deleterious materials.

(e) All water storage and cooling tanks shall be of noncorrosive material, properly covered, air vents properly filtered, clean, free from dust both inside and outside, and the inlet and outlet so arranged as to prevent contamination during filling and emptying.

~~D. TRANSPORTATION OF BULK WATER.~~

~~1. Bulk water shall be from a public water system approved by the Department.~~

~~2. The means and methods of transporting bulk water shall be approved by the Department. Bulk tanks, hoses, pumps and connections used for loading, transporting and unloading water shall be sanitized. Source water for transport shall be treated with an effective disinfectant approved by the Department at an approved concentration prior to being transported.~~

~~3. Tank filling and delivery hose connections shall be cleaned and sanitized on a regular basis. The tank shall be sealed at all times except when being filled, being cleaned and sanitized and when the water is being unloaded. A record of such cleaning and sanitizing shall be maintained with the vehicle and shall be available upon request by the Department. Pumps, hoses, connections and fittings shall be capped and protected from contamination when not in use. The tank manhole shall not be used as a means of filling the tank. To prevent collapse of the tank during delivery of bulk water, the manhole may be opened but shall be provided with an air filter to prevent contamination.~~

~~4. All surfaces which come into contact with water during storage prior to transport, shall be of smooth, impervious, nonabsorbent, corrosion resistant and nontoxic material such as stainless steel of the American Iron and Steel Institute 300 Series, or equally corrosion resistant, nontoxic material. All water contact surfaces shall be free of substances which may render the water hazardous to health or which may adversely affect the flavor, color, turbidity, odor, radiological, microbiological or chemical quality of the water.~~

~~5. Bulk water transport is intended to move source water from one area to another for the purpose of treatment, packaging and human consumption. Such water shall not be dispensed directly to consumers from a bulk water transport tank or indirectly through some other vending device unless otherwise approved by the Department. In case of an emergency, such as a drinking water shortage or outage, or a contaminated water supply, treated water may be dispensed directly from a properly sanitized water transport tank.~~

~~E. DISPOSAL OF WASTES.~~

~~1. All liquid wastes shall be disposed of by connection to a public sewer or as approved by the Department.~~

~~2. Rubbish, refuse, and garbage shall be so handled, stored and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food contact surfaces, ground surfaces and water supplies.~~

~~F. PLUMBING.~~

~~Plumbing shall meet all applicable state and local plumbing laws, ordinances and regulations, and shall be sized, installed and maintained to:~~

~~1. Carry sufficient quantities of water to required locations throughout the bottling plant.~~

~~2. Properly convey sewage and liquid disposable waste from the bottling plant.~~

~~3. Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils or create an unsanitary condition.~~

~~4. Provide adequate floor drainage in all areas where floors are subject to flooding type cleaning or where normal operations release or discharge water or other liquid waste on the floor.~~

~~5. Prevent backflow or back-siphonage from, or cross connection between, piping systems discharging wastewater or sewage and piping systems carrying water for soft drink and bottled water manufacturing. This shall include adequate backflow and back-siphonage protection for water lines used to transport detergents, sanitizers, lubricants, etc.~~

~~G. TOILET FACILITIES.~~

~~1. Toilet facilities shall be approved by the Department, shall be adequate, conveniently located, accessible to employees at all times, and shall conform to applicable building and plumbing codes.~~

~~2. Toilet room floors shall be easily cleanable. Toilet room floors should be properly sloped to trapped drains.~~

~~3. Toilet room walls and ceilings shall be of sound construction. Toilet room walls shall be smooth and washable to at least a wainscot height.~~

~~4. Toilet rooms shall not open directly into the syrup or filling rooms.~~

~~5. Toilet room doors shall be self-closing.~~

~~6. Toilet rooms shall be adequately ventilated. Toilet room windows opened for ventilation shall be properly screened.~~

~~7. Toilet rooms shall be kept clean, in good repair and free of insects at all times.~~

~~8. Approved hand-washing signs shall be posted in each toilet room used by production employees.~~

~~9. Toilet tissue, soap, individual towels and trash receptacles shall be provided.~~

~~H. DRESSING ROOMS AND LOCKER AREAS.~~

~~1. If employees routinely change clothes within the bottling plant, rooms or areas shall be designated and used for that purpose and shall be kept clean and in good repair.~~

~~2. Adequate lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings and shall be kept clean. Personnel lockers shall not be located in the syrup or filling rooms.~~

~~I. HAND WASHING FACILITIES.~~

~~1. An adequate number of lavatories, convenient to toilet rooms and production areas, shall be provided.~~

~~2. Each lavatory shall be provided with hot and cold running water, soap and approved sanitary towels, or other approved hand-drying devices. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities.~~

~~J. SANITARY OPERATIONS.~~

~~1. GENERAL MAINTENANCE~~

~~Buildings, fixtures, and other physical facilities of the bottling plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the bottling plant. These materials shall be identified, used only in such manner and under conditions as will be safe for their intended uses, and stored in an approved area and manner so as to minimize the danger of contamination of food and food contact surfaces.~~

~~2. ANIMAL AND VERMIN CONTROL~~

~~No animals or birds shall be allowed in any area of the bottling plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues. Insecticides and rodenticides shall be properly labeled and stored in a approved area and manner so as to minimize the danger of contamination of food and food contact surfaces.~~

~~SECTION VI. EQUIPMENT AND UTENSILS~~

~~A. All bottling plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained and kept clean and in good repair. The design, construction and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal and glass fragments, contaminated water, or any other contaminants.~~

~~B. All equipment shall be so installed and maintained to facilitate the cleaning of the equipment and all adjacent spaces.~~

~~C. All food contact surfaces shall be corrosion resistant when in contact with food and shall be made of nontoxic materials and designed to withstand the environment of their intended use and any corrosive action by the food, cleaning compounds and sanitizing agents. Seams on food contact surfaces shall be smoothly bonded.~~

~~D. All equipment shall be designed to prevent food contact surfaces from being contaminated by clothing or personal contact.~~

~~E. Mixing and storage tanks shall be provided with approved tight fitting covers which shall be kept closed when in use, except when blending is being conducted.~~

~~F. All equipment shall be constructed so that drip or condensation from fixtures, ducts, pipes, etc., does not contaminate food, food contact surfaces or food packaging materials.~~

~~G. All equipment that is in the manufacturing or food handling areas and that does not come in contact with food shall be so constructed that it can be kept in a clean condition.~~

~~H. Approved washable covers shall be provided over exposed containers prior to filling and between filling and sealing in all areas where contamination is reasonable possible.~~

SECTION VII. PRODUCTION AND PROCESS CONTROLS

A. PROCESS CONTROLS.

~~1. All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging and storing of food shall be conducted in accordance with adequate sanitation principles. During delivery of bulk ingredients in tanks, to prevent collapse of the tank, the manhole may be opened, but shall be provided with an air filter to prevent contamination.~~

~~2. Appropriate quality control operators should be employed to ensure that food is suitable for human consumption and that food packaging materials are safe and suitable. Overall sanitation of the bottling plant shall be under the supervision of one or more competent individuals assigned responsibility for this function. All reasonable precautions shall be taken to ensure that production procedures do not contribute contamination from any source.~~

~~3. Chemical, microbiological, or extraneous material testing procedures shall be used, where necessary, to identify sanitation failures or possible food contamination. All food that has become adulterated shall be rejected, or if permissible, treated or processed to eliminate the contamination.~~

~~4. Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into soft drinks and bottled waters and shall be stored under conditions that will protect against contamination and minimize deterioration.~~

~~5. Raw materials and other ingredients shall be properly labeled and stored in containers designed and constructed so as to protect against contamination.~~

~~6. Raw materials and ingredients shall be kept at such temperature and relative humidity to prevent the food from becoming adulterated.~~

~~7. The bottler shall maintain in the plant a current certification or notification of approval from the Department which shall constitute approval of the water source and which shall be available for inspection, and a copy of which shall be made available to consumers upon request.~~

~~8. Soft drink and bottled water products shall not be stored, transported, processed or bottled through equipment or lines used for any non-food product.~~

~~9. Soft drink and bottled water production, including transporting, processing, packaging, and storage shall be conducted under such conditions and controls as are necessary to minimize the potential for microbiological contamination of the finished product.~~

~~10. Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three volumes of carbon dioxide or other equivalent disinfection approved by the Department.~~

~~11. Weekly in house total coliform monitoring on finished product of each bottled water product type and quarterly rinse/swab tests on bottled water containers (incoming as well as those immediately from the washer) and closures shall be performed in-house or by an approved laboratory as stipulated in 21 CFR Section 129.80. For microbiological contaminants (total coliform), analyze a representative sample from a batch or segment of a continuous production run for each bottled water product type produced by the plant.~~

~~12. Samples of source water shall be taken and analyzed by the bottled water plant as often as necessary, but at a minimum frequency of once each year for chemical contaminants and once every four years for radiological contaminants. Firms that use a public water system for source water may substitute public water system testing results, or certificates showing full compliance with all provisions of EPA National Primary and Secondary Drinking Water Regulations pertaining to chemical contaminants.~~

~~13. For chemical, physical, and radiological contaminants, a representative sample from a batch or segment of continuous production run for each type of finished bottled water product produced by the plant shall be analyzed annually to assure that the product(s) complies with current FDA standards.~~

~~14. Bottled water may be used as an ingredient in beverages (e.g. diluted juices, flavored bottled waters).~~

~~15. Spring water shall be collected only at the spring or through a borehole tapping the underground formation feeding the spring. There shall be a natural force causing the water to flow to the surface through a natural orifice. The location of the spring shall be identified and such identification shall be maintained in the company's records. Spring water collected with the use of an external force shall be from the same underground stratum as the spring, as shown by a measurable hydraulic connection using a hydrogeologically valid method between the bore hole and the natural spring, and shall have all the physical properties, before treatment, and be of the same composition and quality, as the water that flows naturally to the surface of the earth. If spring water is collected with the use of an external force, water must continue to flow naturally to the surface of the earth through the spring's natural orifice. Plants shall demonstrate, on request to the Department, using a hydrogeologically valid method, that an appropriate hydraulic connection exists between the natural orifice of the spring and the borehole.~~

~~16. Fluoride may be optionally added to bottled water within the limitations established in 21 CFR Section 165.110. Firms may manufacture nonstandardized bottled water products with ingredients such as minerals for flavor. The common usual name of the resultant product must reflect these additions.~~

~~B. CLEANING AND SANITIZING OF EQUIPMENT AND UTENSILS~~

All utensils and food contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Non food contact surfaces of equipment used in the operation of bottling plants shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles and other debris. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and food contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruptions during which such utensils and food contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the food contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. All cleaning and sanitizing agents shall be free of undesirable microorganisms, shall be safe and adequate under the conditions of use, shall have labels which properly identify the contents, and shall be properly stored. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment. All cleaned and sanitized equipment and utensils shall be transported and stored to assure complete drainage and stored in a manner that protects the food contact surfaces from contamination.

C. APPROVED METHODS OF SANITIZATION.

1. Hot water may be used if the cleaned surfaces to be sanitized are in contact with water at a temperature not less than 170°F. for a period of not less than two minutes. In treating pipelines and fillers, the water issuing from the outlet must be a minimum of 170°F. for a least two minutes.

2. Chlorine may be used if the cleaned surfaces to be sanitized are in contact with a solution containing not less than fifty parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F. for not less than one minute or to an equivalent chlorine concentration/time period process approved by the Department.

3. Other methods of sanitization may be used if approved by the Department.

D. RETURNABLE CONTAINER CLEANING.

1. All returnable containers shall be adequately, mechanically washed and sanitized prior to filling. Unless the containers are sealed after washing, they shall be washed immediately prior to filling. Hand cleaning of containers is prohibited except as a preliminary to subsequent mechanical washing.

2. METAL AND GLASS CONTAINERS

(a) All metal and glass containers shall be exposed to a minimum 3% alkali solution of which not less than 60% is caustic soda (sodium hydroxide) by an approved automatic mechanical method for a period of not less than five minutes at a temperature of not less than 130°F., or to an equivalent cleaning and sanitizing process approved by the Department.

(b) Containers shall be rinsed of all caustic soda with potable water.

3. POLYCARBONATE CONTAINERS

(a) Polycarbonate containers shall be cleaned with approved non-caustic detergents at their required concentrations by an approved mechanical method.

~~(b) An approved sanitizing rinse consisting of chlorine, bromine, iodine, quaternary ammonia or ozonated water at the proper approved temperature/time/concentration must follow the cleaning cycle.~~

~~4. A permanent record of key operating parameters of the container washer should be maintained. These records or logs should include, but not limited to wash temperatures, concentrations of cleaners, concentrations of sanitizers, lack of carryover of cleaners or caustic in bottles, and maintenance on the washer. Tests on cleaner/sanitizer concentrations and carryover should be carried out at start-up and regularly thereafter throughout the shift. All maintenance on washer should be recorded, such as cleaning or aligning spray jets. All records shall be kept on file at least two years for regulatory inspection. Each washer shall be equipped with an indicating thermometer.~~

~~E. SINGLE SERVICE CONTAINERS.~~

~~1. Single service containers shall be manufactured from food grade materials that do not impart odors or tastes to the product nor contaminate the product with microorganisms, toxic or injurious substances.~~

~~2. Single service containers shall be packaged and stored in a manner approved by the Department prior to filling.~~

~~3. Unless otherwise approved by the Department, all single service containers shall be inverted and rinsed with potable water, treated by filtered compressed air or vacuumed to remove dust prior to filling.~~

~~F. INSPECTION OF RETURNABLE CONTAINERS.~~

~~1. BOTTLES~~

~~(a) All empty bottles shall be visually inspected immediately after the final rinse of the washing operation for defects, chips, foreign objects, and unclean product contact surfaces as the bottles pass on a conveyor before a well illuminated background at a speed slow enough for the inspector to achieve high efficiency. Bottles used exclusively for bottled water coolers do not have to pass before a well illuminated background, but should be visually inspected prior to reuse.~~

~~(b) Dirty bottles shall be removed from the production line and either destroyed or rewashed. Defective bottles shall be removed from the production line and destroyed. When inspectors break bottles for cullet, adequate protection shall be provided for exposed bottles in the immediate area to prevent glass fragments from entering them.~~

~~(c) Electronic inspection devices can be used in addition to visual inspection; however, electronic inspection devices shall not be substituted for visual inspection of returnable bottles without the approval of the Department. Inspectors shall have good eyesight, with or without corrective lenses, and shall be rotated to noninspection work as often as is necessary to maintain high efficiency.~~

~~(d) Returnable bottles shall not be used where their condition or design may prevent proper inspection of the contents thereof.~~

~~2. METAL CANISTERS~~

~~(a) All metal canisters shall be visually inspected immediately after the final rinse of the washing operation for the presence of foreign objects or unclean product contact surfaces.~~

~~(b) Unelean canisters shall be either immediately returned to the washer or removed to the storage area for unelean canisters.~~

~~G. CONTAINER CLOSURES.~~

~~1. Container closures shall be manufactured from food-grade materials which do not impart odors or tastes to the product nor contaminate the product with microorganisms, toxic or injurious substances.~~

~~2. Container closures shall be received by the bottling plant in an undamaged package sealed by the manufacturer.~~

~~3. All container closures shall be stored in a clean, dry place protected from insects, rodents, dust, splash, or other contamination. Closures which have been touched on the inner side by the operator, as may occur while adjusting equipment, shall be discarded.~~

~~4. Container closures not used during the period of processing operations shall be resealed in their original container or stored in an approved tightly covered container.~~

~~5. Only new container closures shall be used.~~

~~H. FILLING AND SEALING.~~

~~1. Containers shall be filled and sealed with approved mechanical equipment. Manual filling and sealing shall be prohibited, except when otherwise approved by the Department for package sizes in which mechanical sealing equipment is not yet readily available.~~

~~2. Filling equipment which fills glass containers under pressure should be provided with an adequate shield to protect against broken glass entering unsealed containers. Whenever a glass bottle breaks while being filled or sealed, the machinery involved shall be stopped and all broken glass shall be removed from parts which touch the opening of bottles or which contact the product. This shall be performed in such a manner to protect against transferring broken glass into nearby bottles which have exposed openings.~~

~~3. No person or his clothing shall come in contact with any portion of the container or equipment which might result in contamination of the product.~~

~~4. The contents of all imperfectly sealed containers shall be discarded.~~

~~I. INGREDIENTS AND LABELING.~~

~~1. All soft drinks and bottled waters shall be prepared with approved ingredients that meet all applicable ingredient regulations as defined by the United States Food and Drug Administration.~~

~~2. All soft drink and bottled water labeling shall conform to applicable federal and state labeling laws.~~

~~SECTION VIII. EXAMINATION AND CONDEMNATION OF UNWHOLESOME OR CONTAMINATED RAW MATERIALS OR FINISHED PRODUCT.~~

~~A. Samples of ingredients, drinks, and other substances shall be taken and examined by the Department as often as may be necessary for the detection of unwholesomeness or adulteration.~~

~~B. The Department may condemn and forbid the sale of, or cause to be removed and destroyed, any ingredients or products which are unwholesome or adulterated.~~

~~SECTION IX. ENFORCEMENT PROCEDURES~~

~~A. PERMITS~~

~~It shall be unlawful for any person to manufacture soft drinks or bottled waters in South Carolina without a valid permit issued by the Department for the specific bottling plant. Permits are not transferable.~~

~~B. ISSUANCE OF PERMITS~~

~~1. Any person desiring to manufacture soft drinks or bottled waters in South Carolina shall make written application for a permit on the appropriate application form provided by the Department. This form shall include name and address of bottling plant's owner, location and type of facility and products to be manufactured, applicant's signature and such other information deemed necessary by the Department to determine compliance with this regulation.~~

~~2. A permit is valid as long as the bottling plant continues in operation under the same ownership or until the permit is revoked or suspended.~~

~~3. Any person whose application for a permit is denied under this regulation may request that a hearing be held as required by law.~~

~~C. SUSPENSION OF PERMIT~~

~~1. Permits may be suspended temporarily by the Department for repeated violation, for total number of violations, or for interference with the Department in the performance of its duty. Prior to permit suspension, the Department shall notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit is to be suspended and that the permit shall be suspended at the end of the 15 days following service of such notice unless a written request for a hearing is filed with the Department by the permit holder within such 15 day period. If no written request is filed within 15 days, the permit is suspended and bottling operations shall immediately cease. If the hearing upholds the finds of the Department, the permit shall be suspended until the reasons for the suspension have been corrected.~~

~~2. The Department may without warning, notice, or hearing suspend the permit to operate a bottling plant when it is determined that the operation of the bottling plant constitutes an imminent hazard to public health. Following immediate permit suspension, all bottling operations shall immediately cease. The Department shall promptly notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit was suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Department by the permit holder within 15 days. If no written request for a hearing is filed within 15 days, the suspension is sustained. During the hearing process, the permit shall remain suspended unless the imminent health hazard has been corrected.~~

~~3. Hearings on suspension of permits as provided for in this regulation shall be conducted in accordance, where applicable, with the South Carolina Administrative Procedures Act, Sections 1-23-310 et seq., 1976 Code of Laws of South Carolina as amended, and applicable regulations.~~

~~D. REVOCATION OF PERMIT.~~

~~1. The permit may be revoked for failure to correct deficiencies within prescribed time limits or for repeated violations of any of the requirements of this regulation, or for the interference with the health authority in the performance of duty.~~

~~2. Prior to revocation, the Department shall notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit is to be revoked and that the permit shall be revoked at the end of the 15 days following service of such notice unless a written request is filed with the Department by the permit holder within such 15-day period.~~

~~3. Any person whose permit is revoked shall not be eligible to apply for repermitting within one year from the date of revocation. Any person whose permit has previously been revoked and who obtains a subsequent permit and violates the provisions of this regulation, resulting in revocation of the bottling plants permit for the second time, shall not be granted another permit.~~

~~4. Hearings on revocation of permits as provided for in this regulation shall be conducted in accordance with the South Carolina Administrative Procedures Act, SC Code Ann. 1-23-310 et seq. (1976, as amended) and applicable regulations.~~

~~E. SERVICE OF NOTICES~~

~~A notice provided for in this regulation is properly served when it is delivered to the permit holder, manager or other duly authorized representative, or when it is sent by registered or certified mail, return receipt requested and delivery restricted to the addressee, to the last known address of the bottling plant's permit holder.~~

~~F. HEARINGS~~

~~All hearings provided for in this regulation shall be conducted in accordance with the South Carolina Administrative Procedures Act, SC Code Ann. 1-23-310 et seq. (1976, as amended) and applicable regulations.~~

~~G. INSPECTIONS~~

~~Inspections of bottling plants shall be performed as frequently as deemed necessary to insure compliance with this regulation.~~

~~H. ACCESS~~

~~Representatives of the Department, after proper identification, shall be permitted to enter any bottling plant at any reasonable time for the purpose of making inspections to determine compliance with this regulation. The representatives shall be permitted to examine the records of the establishment to ascertain information relative to the purchasing, receiving, and use of such food products or other supplies used in the manufacturing of soft drinks and bottled waters. It shall be unlawful for any representatives of the Department who, in an official capacity, obtain any information under the provisions of this regulation which is entitled to protection as a trade secret (including information as to quantity, quality, source or disposition of soft drinks or bottled water products, or results of inspections or tests thereof) to use such information to their own advantage or to reveal it to any unauthorized person.~~

~~I. REPORT OF INSPECTIONS~~

~~When an inspection of a bottling plant is conducted, a copy of the completed inspection report form shall be furnished to the permit holder, manager or other duly authorized representative.~~

~~J. SUBMISSION OF PLANS~~

~~When a bottling plant is constructed or extensively remodeled and when an existing structure is converted for use as a bottling plant, properly prepared plans and specifications for such construction, remodeling, or conversion should be submitted to the Department for review and approval before construction, remodeling, or conversion. The plans and specifications should indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the make and model number of proposed fixed equipment and facilities. The Department shall approve the plans and specifications if they meet the requirements of this regulation. In the absence of plan approval, issuance of the bottling plant permit shall be determined by compliance with all applicable requirements of this regulation.~~

~~K. RECIPROCITY~~

~~Upon receiving from any person, entity, or any regulatory agency outside this state, a report of a possible violation of this regulation by a permit holder, the Department may conduct such inspection or investigation as it deems appropriate. Upon receiving information that soft drinks or bottled waters manufactured or bottled outside this state and introduced into this state may have been manufactured in violation of applicable state or federal law or not in conformance with prevailing and applicable standards and good public health practices, the Department may notify appropriate regulatory authorities located outside this state and request that such authorities take appropriate action.~~

~~L. OUT-OF-STATE IMPORTS~~

~~Due to additional FDA laboratory testing requirements for bottled water products, out-of-state water bottlers should submit the following to the Department: (a) a certification signed by the applicable regulatory agency with jurisdiction over the bottling in the state of origin stating that the plant(s) is permitted or licensed as required, the source water supply meets all EPA public drinking water requirements, and is operated and maintained in a sanitary manner based on previous plant inspection(s); (b) the name, address, and phone number(s) of all plant(s) manufacturing bottled products for sale in South Carolina; (c) a copy of the latest finished bottled water product water analyses (total coliform, inorganic, organic, radiological); and (d) the location(s) where the product(s) may be sampled in South Carolina.~~

~~M. OUT-OF-COUNTRY IMPORTS~~

~~For bottled water products imported from outside the United States, permission should be obtained from the Department prior to initiating the importation of bottled water products into South Carolina. This should include a certification signed by the applicable regulatory agency in the country of origin with jurisdiction over the bottling that (a) describes the requirements of said country for the source, bottling facility, treatment, bottling practices, and finished products; (b) states the date of the last officially authorized inspection by the applicable regulatory agency or acceptable third-party inspection organization and review of said source, facility, treatment, bottling practices, and final products; (c) certifies that said source, facility, treatment, bottling practices, and finished products meet the standards of the country of origin except those that are in conflict with U.S. State and Federal laws and regulations; and (d) where the product(s) may be sampled in South Carolina.~~

~~N. RECALL~~

~~Each bottling plant operator shall develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any said procedure as necessary with respect to any product for which the operator or the Department knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the Department determines, based upon representative samples, risk analysis, information provided by the bottling supplier, and other information available to the Department, that the circumstances present an imminent hazard to the public health and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the Department may order the bottling supplier to initiate a level of product recall or, if appropriate, issue a form of notification to customers. The bottling supplier shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.~~

~~O. ENFORCEMENT PROVISIONS~~

~~This regulation is issued under the authority of South Carolina Code Ann. Section 44-1-140 (1976, as amended) and shall be enforced by the Department.~~

~~P. PENALTIES~~

~~Violation of this regulation shall be punishable in accordance with South Carolina Code Ann. Section 44-1-150 (1976, as amended).~~

61-32. Wholesale Bottled Water, Soft Drink, and Ice Manufacturing.

Statutory Authority: S.C. Code Sections 44-1-140 and 44-1-150

CONTENTS:

SECTION I. PURPOSE.

SECTION II. SCOPE.

SECTION III. DEFINITIONS.

SECTION IV. ADULTERATED OR MISBRANDED BOTTLED WATER, SOFT DRINKS, OR ICE.

SECTION V. COMPLIANCE PROCEDURES.

SECTION VI. LABELING.

SECTION VII. INSPECTION OF BOTTLED WATER, SOFT DRINK, AND ICE PLANTS AND DISTRIBUTION STATIONS.

SECTION VIII. EXAMINATION OF BOTTLED WATER, SOFT DRINKS, AND ICE.

SECTION IX. BOTTLED WATER, SOFT DRINK, AND ICE PLANTS AND DISTRIBUTION STATIONS.

SECTION X. SUBMISSION OF PLANS.

SECTION XI. RECIPROCITY.

SECTION XII. OUT-OF-STATE BOTTLED WATER IMPORTS.

SECTION XIII. RECALL.

SECTION XIV. EQUIPMENT AND FACILITIES IN OPERATION PRIOR TO JULY 1, 2020.

SECTION XV. PROCEDURE WHEN INFECTION OR HIGH RISK INFECTION IS SUSPECTED.

SECTION XVI. ENFORCEMENT PROVISIONS.

SECTION XVII. SEVERABILITY CLAUSE.

SECTION I. PURPOSE

This regulation sets forth minimum health standards, procedures, and practices to ensure that wholesale BOTTLED WATER, SOFT DRINKS, and ICE are manufactured in South Carolina in a safe and wholesome manner.

SECTION II. SCOPE

This regulation shall apply to all PERSONS who manufacture or distribute wholesale BOTTLED WATER, SOFT DRINKS, or ICE, sold for human consumption in South Carolina.

SECTION III. DEFINITIONS

A. ADEQUATE - substantial compliance with acceptable health standards, procedures, and practices.

B. ADULTERATED or ADULTERATION - BOTTLED WATER, SOFT DRINKS, or ICE are deemed to be ADULTERATED if the product:

1. Bears or contains any poisonous or deleterious substance in a quantity that may render it injurious to health;

2. Bears or contains any added poisonous or deleterious substance for which no state or federal regulation has established a safe tolerance, or in excess of such tolerance if one has been established;

3. Consists, in whole or in part, of any substance unfit for human consumption;

4. Has been produced, processed, prepared, packaged, or held under unsanitary conditions;

5. Is packaged in a container which is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

6. Has any substance added thereto, or mixed or packaged therewith, so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

7. Is in violation of Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. Section 342).

C. APPROVED - acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

D. APPROVED LABORATORY - a laboratory APPROVED by the Department or certified by the U.S. Environmental Protection Agency (EPA), or certified (accredited) by a third-party organization acceptable to the Department.

E. APPROVED SOURCE - the source of the water used in a plant's operations or a bottled water plant's product water, whether it be from a spring, artesian well, drilled well, public or community water system, or any other source that has been inspected and the water sampled, analyzed, and found of a safe and sanitary quality with or without treatment, and APPROVED by the Department in accordance with Regulation 61-58, State Primary Drinking Water Regulations.

F. ARTESIAN WATER - BOTTLED WATER from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer. ARTESIAN WATER may be collected with the

assistance of external force to enhance the natural underground pressure. On request, plants shall demonstrate to the Department that the water level stands at some height above the top of the aquifer.

G. BOTTLED WATER - water that is intended for human consumption and that is sealed in bottles or other CONTAINERS with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. It does not include those FOOD ingredients that are declared in ingredient labeling as “water,” “carbonated water,” “disinfected water,” “filtered water,” “seltzer water,” “soda water,” “SPARKLING WATER,” and “tonic water.”

H. BOTTLING - filling, capping, packaging, or enclosing in CONTAINERS.

I. BOTTLING PLANT - any establishment involved in the manufacturing or packaging of SOFT DRINKS and/or BOTTLED WATERS.

J. BUSINESS DAY - every official work day of the week excluding weekends and state holidays.

K. BULK WATER - source water collected at an APPROVED site remote from the BOTTLING PLANT and transported to the BOTTLING PLANT for further processing and BOTTLING.

L. CODE OF FEDERAL REGULATION (CFR) - a codification of the general and permanent rules and regulations (administrative LAW) published in the Federal Register by the executive departments and agencies of the federal government of the United States. Citations to the CFR in this regulation refer sequentially to the Title, Part, and Section numbers. For example, the citation 21 CFR 117.10 refers to Title 21, Part 117, Section 117.10.

M. CONTAINER - any material used for the packaging of SOFT DRINKS, BOTTLED WATERS, and ICE, whether of glass, plastic, metal, paper, or any combination thereof.

N. DEMINERALIZED WATER - BOTTLED WATER that is produced by distillation, deionization, reverse osmosis, or other suitable process, that meets the definition of PURIFIED WATER in the United States Pharmacopoeia, and is specified by the U. S. Food and Drug Administration (FDA) in 21 CFR 165.110.

O. DEIONIZED WATER - BOTTLED WATER that has been produced by a process of deionization, that meets the definition of PURIFIED WATER in the United States Pharmacopoeia, and is specified by the FDA in 21 CFR 165.110.

P. DEPARTMENT - the South Carolina Department of Health and Environmental Control and its authorized representatives.

Q. DISTILLED WATER - BOTTLED WATER that has been produced by a process of distillation, meets the definition of PURIFIED WATER in the United States Pharmacopoeia, and is specified by FDA in 21 CFR Section 165.110.

R. DRINKING WATER - water that is intended for human consumption and that is sealed in bottles or other CONTAINERS with no added ingredients, except that it may optionally contain safe and suitable antimicrobial agents.

S. EMPLOYEE - a permit holder, PERSON in charge, PERSON having supervisory or managerial duties, PERSON on the payroll, family member, volunteer, PERSON performing work under a contractual

agreement, or any other PERSON working in a BOTTLED WATER, SOFT DRINK, or ICE plant or distribution station.

T. EQUIPMENT - all machinery, utensils, conveyors, CONTAINERS, cases, and other articles used in the manufacturing of BOTTLED WATER, SOFT DRINKS, or ICE.

U. EXCLUSION - prevention of a PERSON from working as an EMPLOYEE in a BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station, or entering a BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station as an EMPLOYEE.

V. FDA - United States Food and Drug Administration.

W. FOOD - means FOOD as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (“FD&C”) and includes raw materials and ingredients.

X. GROUND WATER - water from a subsurface saturated zone that is under a pressure equal to or greater than atmospheric pressure. GROUND WATER must not be under the direct influence of surface water.

Y. ICE - the product, in any form, obtained as a result of freezing water by mechanical or artificial means.

Z. ICE VENDING MACHINES - any self-service machines that act as stand-alone units and may operate without full-time service personnel. These units are activated by the insertion of money; the ICE is bagged automatically or dispensed in bulk to the customer.

AA. IMMINENT HEALTH HAZARD - a significant threat or danger to health that is considered to exist when there is sufficient evidence to show that a product, practice, circumstance, or event creates a situation requiring immediate correction or cessation of operation to prevent illness or injury based on the number of potential illnesses or injuries, and the nature, severity, and duration of the anticipated illness or injury.

BB. LAW - applicable local, state, and federal statutes, regulations, and ordinances.

CC. MANUFACTURED BOTTLED WATER, SOFT DRINKS, AND/OR ICE PRODUCTS DISTRIBUTION STATION - any place or PREMISES, except RETAILERS, where manufactured BOTTLED WATER, SOFT DRINKS, and ICE products are received, stored, and dispensed to RETAILERS (may also be referred to as “Distribution Station”).

DD. MANUFACTURED BOTTLED WATER, SOFT DRINKS, AND/OR ICE PRODUCTS DISTRIBUTOR - any PERSON, except a RETAILER, who receives, stores, and dispenses manufactured BOTTLED WATER, SOFT DRINKS, and ICE products to RETAILERS (may also be referred to as “Distributor”).

EE. MANUFACTURED BOTTLED WATER, SOFT DRINKS, AND/OR ICE PRODUCTS MANUFACTURER - any PERSON, except a RETAILER, who manufactures, processes, or freezes manufactured BOTTLED WATER, SOFT DRINKS, and ICE products for distribution or sale.

FF. MANUFACTURED BOTTLED WATER, SOFT DRINKS, AND/OR ICE PRODUCTS PLANT - any place or PREMISES, except RETAILERS, where manufactured BOTTLED WATER, SOFT DRINKS, and ICE products are manufactured, processed, or frozen for distribution or sale.

GG. MICROORGANISMS - means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are PATHOGENS. The term "undesirable MICROORGANISMS" includes those MICROORGANISMS that are PATHOGENS, that subject FOOD to decomposition, that indicate that FOOD is contaminated with filth, or that otherwise may cause FOOD to be ADULTERATED.

HH. MINERAL WATER - BOTTLED WATER containing not less than 250 parts per million (ppm) total dissolved solids (TDS), coming from a source tapped at one or more boreholes or springs, originating from a geologically and physically protected underground water source. MINERAL WATER is distinguished from other types of water by its constant level and relative proportions of minerals and trace elements at the point of emergence from the source, with consideration given to the cycles of natural fluctuations. No minerals may be added to this water.

II. NATURAL WATER - bottled spring, mineral, artesian, or WELL WATER that is derived from an underground formation or water from surface water that only requires minimal processing, is not derived from a municipal system or public water supply, and is unmodified except for limited treatment (e.g., filtration, ozonation, or equivalent disinfection process).

JJ. PACKAGED ICE - ICE products packaged by APPROVED manufacturers and sold through retail outlets.

KK. PATHOGEN - a microorganism of public health significance.

LL. PERMIT - the document issued by the DEPARTMENT that authorizes a PERSON or entity to operate a BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station.

MM. PERMIT HOLDER - the entity, such as the owner, the owner's agent, or other PERSON, that possesses a valid PERMIT to operate a BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station and is legally responsible for its operation.

NN. PERSON - an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

OO. PEST - any objectionable animals or insects including, but not limited to, birds, rodents, flies and larvae.

PP. PURIFIED WATER - BOTTLED WATER produced by distillation, deionization, reverse osmosis, or other suitable process, that meets the definition of PURIFIED WATER in the United States Pharmacopoeia, and is specified by the FDA in 21 CFR 165.110.

QQ. PREMISES -

1. The physical facility, its contents, its land, and any adjacent or bordering contiguous land or property under the control of the PERMIT HOLDER; or

2. The physical facility, its contents, and land or property not described in (a) of this definition if the facilities and contents are under the control of the PERMIT HOLDER and may impact the BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station personnel, facilities, or operations, and the BOTTLED WATER, SOFT DRINKS, or ICE plant or distribution station is only one component of a larger operation, such as a healthcare facility, hotel, motel, school, recreational camp, or prison.

RR. RESTRICTION - limitation of the activities of an EMPLOYEE so that there is no risk of transmitting a disease that is transmissible through BOTTLED WATER, SOFT DRINKS, or ICE or their ingredients and the EMPLOYEE does not work with exposed BOTTLED WATER, SOFT DRINKS, or ICE or their ingredients, clean EQUIPMENT, utensils, linens, or unwrapped single-service or single-use articles.

SS. RETAIL FOOD ESTABLISHMENT - an establishment that sells FOOD products directly to consumers as its primary function. RETAIL FOOD ESTABLISHMENTS include, but are not limited to, grocery stores, convenience stores, roadside stands, farmers markets, and community supported agriculture (CSA) operations. Any business making FOOD (including a farm business) with at least 50.1 percent in direct to individual consumer FOOD sales satisfies the definition of a RETAIL FOOD ESTABLISHMENT and is exempt from the Bioterrorism Act registration regulations under the 2002 Bioterrorism Act (21 CFR 1.225) as a RETAIL FOOD ESTABLISHMENT. The term “consumers” does not include businesses. A RETAIL FOOD ESTABLISHMENT also includes certain farm-operated businesses selling FOOD directly to consumers as their primary function.

TT. RETAILER - any PERSON who sells, serves, or dispenses at retail manufactured BOTTLED WATER, SOFT DRINKS, or ICE products that have been processed in an APPROVED manufactured BOTTLED WATER, SOFT DRINKS, or ICE products plant.

UU. REMODELED - any enlarging, replacing of floors, walls, or ceilings, or changing in any respect the structure at which a SOFT DRINK, BOTTLED WATER, or ICE plant is housed. This does not apply to repainting or refinishing of floors or walls.

VV. REVERSE OSMOSIS WATER - BOTTLED WATER that is produced by a process of reverse osmosis, that meets the definition of “PURIFIED WATER” in the United States Pharmacopoeia, and is specified by the FDA in 21 CFR 165.110.

WW. RISK - the likelihood that an adverse health effect will occur within a population as a result of a hazard in a FOOD.

XX. SANITIZE - to ADEQUATELY treat cleaned surfaces by a DEPARTMENT -accepted process that is effective in destroying vegetative cells of PATHOGENS, and in substantially reducing numbers of other undesirable MICROORGANISMS, but without adversely affecting the product or its safety for the consumer.

YY. SOFT DRINK - any nonalcoholic, flavored carbonated beverage, including but not limited to soda or soda water, fruit flavored drink, nonalcoholic still beverage, and seltzer or club soda.

ZZ. SPARKLING BOTTLED WATER - BOTTLED WATER that, after treatment and possible replacement of carbon dioxide, contains the same amount of carbon dioxide that it had at the emergence from the source. Manufacturers may add carbonation to previously noncarbonated BOTTLED WATER products and label such water appropriately (e.g. sparkling SPRING WATER).

AAA. SPRING WATER - BOTTLED WATER derived from an underground formation from which water flows naturally to the surface of the earth. SPRING WATER must comply with the FDA standard of identity in 21 CFR 165.110.

BBB. STERILE WATER - BOTTLED WATER that meets the requirements under “Sterility Tests” in the current United States Pharmacopoeia and specified by the FDA in 21 CFR 165.110.

CCC. UNEXPOSED PACKAGED FOOD - packaged FOOD that is not exposed to the environment.

DDD. WELL WATER - BOTTLED WATER from a hole bored, drilled, or otherwise constructed in the ground that taps the water of an aquifer.

Additional definitions related to this regulation are found in 21 CFR 117.3, as amended.

SECTION IV. ADULTERATED OR MISBRANDED BOTTLED WATER, SOFT DRINKS, OR ICE

A. No PERSON within South Carolina, or its jurisdiction, shall produce, provide, sell, offer, or expose for sale or have in possession with intent to sell, any BOTTLED WATER, SOFT DRINKS, or ICE that is ADULTERATED or misbranded. Any BOTTLED WATER, SOFT DRINK, or ICE that may contain any unwholesome substance, or that does not conform to an applicable standard of identity or other requirement specified under Section III for that particular BOTTLED WATER, SOFT DRINK, or ICE product, shall be deemed ADULTERATED and/or misbranded.

B. The DEPARTMENT may place a hold order on any BOTTLED WATER, SOFT DRINKS, or ICE it determines or has reason to believe:

1. originated from an unAPPROVED SOURCE;
2. may be unsafe, unwholesome, ADULTERATED, misbranded, or not honestly presented;
3. is not labeled according to LAW; or
4. is otherwise not in compliance with this regulation.

C. The DEPARTMENT may suspend a PERSON's PERMIT for violating a hold order.

D. The DEPARTMENT may impound, condemn, forbid the sale of, or cause to be removed or destroyed, any FOOD that is determined to be in violation of this regulation, unwholesome, contaminated, ADULTERATED, misbranded, or from an unAPPROVED source.

E. The DEPARTMENT may issue a hold order to a PERMIT HOLDER or to a PERSON who owns or controls the FOOD, as specified above, without prior warning, notice of a hearing, or a hearing on the hold order.

F. The DEPARTMENT may examine BOTTLED WATER, SOFT DRINKS, and ICE as often as necessary to determine freedom from ADULTERATION or misbranding. Under a hold order, BOTTLED WATER, SOFT DRINKS, or ICE shall be suitably stored. No PERSON shall remove or alter a hold order, notice, or tag placed on BOTTLED WATER, SOFT DRINKS, or ICE by the DEPARTMENT. No PERSON shall relabel, repack, reprocess, alter, dispose of, or destroy such BOTTLED WATER, SOFT DRINKS, or ICE, or the CONTAINERS thereof, without permission of the DEPARTMENT, except on order by a court of competent jurisdiction.

G. When BOTTLED WATER, SOFT DRINKS or ICE are found to be ADULTERATED by pesticides, herbicides, or other poisonous substances, the PERSON or entity in possession of the product shall remove the product from the market, disposed of, and sale stopped until analysis provides the product to be free from ADULTERATION.

SECTION V. COMPLIANCE PROCEDURES

A. PERMIT.

1. It shall be unlawful for any PERSON to manufacture or distribute BOTTLED WATER, SOFT DRINKS, and/or ICE products in South Carolina without a valid PERMIT issued by the DEPARTMENT for the specific BOTTLED WATER, SOFT DRINK, or ICE products plant or distribution station. Grocery stores, restaurants, soda fountains, and similar establishments where BOTTLED WATER, SOFT DRINKS, or ICE are served or sold at retail, but not processed, may be exempt from the requirements of this section.

2. Every BOTTLED WATER, SOFT DRINKS, or ICE manufacturer and distributor must obtain and maintain a PERMIT. PERMITs are nontransferable with respect to PERSONs and/or locations.

B. Suspension of PERMIT.

1. The DEPARTMENT may suspend a PERMIT whenever:

a. it has reason to believe a public health hazard exists;

b. the PERMIT HOLDER has violated any of the requirements of this regulation;

c. the PERMIT HOLDER has violated its PERMIT or an order of the DEPARTMENT, including but not limited to a hold order; or

d. the PERMIT HOLDER has interfered with the DEPARTMENT in the performance of its duties.

A suspension shall remain in effect until the violation has been corrected to the satisfaction of the DEPARTMENT.

2. The DEPARTMENT may without prior warning, notice of a hearing, or hearing suspend a PERMIT to operate a BOTTLED WATER, SOFT DRINK, or ICE plant or distribution station when the DEPARTMENT determines that the operation of the BOTTLED WATER, SOFT DRINK, or ICE plant or distribution station, including but not limited to a willful refusal to permit authorized inspection, constitutes an IMMINENT HEALTH HAZARD. Upon summary PERMIT suspension, all manufacturing and distribution operations shall immediately cease. During the process, the PERMIT shall remain suspended unless the IMMINENT HEALTH HAZARD has been corrected.

3. Any BOTTLED WATER, SOFT DRINK, or ICE manufacturer or distributor whose PERMIT has been suspended may make written application for the reinstatement of the PERMIT.

4. Within seven (7) business days of receiving the written application, the DEPARTMENT shall make inspections and/or collect samples for analysis to determine whether the conditions cited in the notice of suspension no longer exist. If conditions warrant, the DEPARTMENT may reinstate the PERMIT.

C. Revocation of PERMIT.

1. The DEPARTMENT may revoke a PERMIT for repeated violations of any of the requirements of this regulation, the PERMIT, or an order of the DEPARTMENT, or for interference with the DEPARTMENT or its staff in the performance of duties. Notwithstanding any other provisions of this regulation, the PERMIT may be revoked if the DEPARTMENT is threatened with bodily harm or physical interference in the performance of inspectional duties.

2. The DEPARTMENT may deny a new PERMIT based upon past noncompliance, including previous enforcement, suspension, or revocation history.

3. Any PERSON whose PERMIT is revoked shall not be eligible to apply for re-permitting within one (1) year from the date of revocation. Any PERSON whose PERMIT has previously been revoked and who obtains a subsequent PERMIT and violates the provisions of this regulation, resulting in revocation of the PERMIT for a second time, shall not be granted another PERMIT for a period of five (5) years.

SECTION VI. LABELING

All BOTTLED WATER, SOFT DRINK, and ICE products shall be labeled according to the requirements in 21 CFR Part 101, as amended.

SECTION VII. INSPECTION OF BOTTLED WATER, SOFT DRINK, AND ICE PLANTS AND DISTRIBUTION STATIONS

A. Each BOTTLED WATER, SOFT DRINK, or ICE manufacturer and distributor whose products are intended for consumption within South Carolina shall be inspected by the DEPARTMENT prior to the issuance of a PERMIT.

B. Following the issuance of a PERMIT, the DEPARTMENT shall inspect each BOTTLED WATER, SOFT DRINK, or ICE manufacturer and distributor at a frequency determined by the RISK level assigned to the product(s) being manufactured or distributed or as otherwise deemed necessary by the DEPARTMENT to determine compliance with this regulation.

C. A copy of the inspection report will be provided, either electronically or in paper form, to the PERMIT HOLDER, manager, or other duly authorized representative.

D. Every BOTTLED WATER, SOFT DRINK, or ICE manufacturer and distributor shall, upon request of a DEPARTMENT representative, permit DEPARTMENT access to all parts of the establishment or facilities to determine compliance with the provisions of this regulation. A PERMIT HOLDER, manager, or other duly authorized representative shall furnish the DEPARTMENT, upon request and for official use only, a true statement of the actual quantities of BOTTLED WATER, SOFT DRINK, or ICE product purchased and sold, a list of all sources of such BOTTLED WATER, SOFT DRINK, or ICE products, records of inspections, and records of tests.

E. It is unlawful for any PERSON who, in an official capacity, obtains any information under the provisions of this regulation which is entitled to protection as a trade secret to use such information to his own advantage or to reveal it to any unauthorized PERSON.

SECTION VIII. EXAMINATION OF BOTTLED WATER, SOFT DRINKS, AND ICE

A. Chemical, microbiological, or extraneous material testing procedures shall be used, where necessary, to identify sanitation failures or possible contamination. All FOOD that has become ADULTERATED shall be rejected, or if permissible, treated or processed to eliminate the contamination.

B. BOTTLED WATER manufacturers must perform weekly total coliform monitoring on the finished product of each BOTTLED WATER product type and conduct quarterly rinse/swab tests on BOTTLED WATER CONTAINERS (incoming, as well as those immediately from the washer) and closures. This monitoring and testing must be performed in-house or by an APPROVED LABORATORY as stipulated in 21 CFR Section 129.80. For microbiological contaminants (total coliform), each BOTTLED WATER

manufacturer must analyze a representative sample from a batch or segment of a continuous production run for each BOTTLED WATER product type produced by the plant.

C. Samples of source water shall be taken and analyzed by the BOTTLED WATER plant as often as necessary, but at a minimum frequency of once each year for chemical contaminants and once every four (4) years for radiological contaminants. Facilities that use a public water system for source water may substitute public water system testing results, or certificates showing full compliance with all provisions of the Environmental Protection Agency's National Primary and Secondary Drinking Water Regulations pertaining to chemical contaminants.

D. For chemical, physical, and radiological contaminants, a representative sample from a batch or segment of continuous production run for each type of finished BOTTLED WATER product produced by a water BOTTLING PLANT shall be analyzed annually to ensure that the product(s) complies with current FDA standards.

SECTION IX. BOTTLED WATER, SOFT DRINK, AND ICE PLANTS AND DISTRIBUTION STATIONS

A. Water supply for BOTTLED WATER, SOFT DRINK, and ICE plants and ICE and water vending.

1. The water supply shall be from an APPROVED public water system as defined in R.61-58, State Primary Drinking Water Regulations.

2. The design, operation, and maintenance of water purification systems used to further treat potable water shall be certified as meeting the specifications of the American National Standard Institute/National Sanitation Foundation (ANSI/NSF). All chemicals and products added to the potable water shall meet ANSI/NSF Standard 60. All materials and products installed that come into contact with the potable water shall meet ANSI/NSF Standard 61. The certifying party shall be accredited by the American National Standards Institute. They shall not be operated beyond their rated capacity and shall be maintained in a clean, sanitary condition at all times. This shall include dispensed water and ICE VENDING MACHINES.

3. Potable running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the processing of SOFT DRINKS, BOTTLED WATER, and ICE; for the cleaning of EQUIPMENT, utensils, and CONTAINERS; and for EMPLOYEE sanitary facilities.

4. Carbonated water shall be conveyed in APPROVED stainless steel or equal FOOD-grade piping and not in piping of galvanized iron, lead, zinc, or other deleterious materials.

5. All water storage and cooling tanks shall be of noncorrosive material, properly covered; air vents properly filtered, clean, and free from dust both inside and outside; and the inlet and outlet so arranged as to prevent contamination during filling and emptying.

B. Required rooms.

1. Except as APPROVED by the DEPARTMENT under paragraph B.2 below, each BOTTLED WATER and SOFT DRINK plant shall have a separate room (commonly called a syrup or blend room) or separate area of the filling room for mixing ingredients for BOTTLED WATER or SOFT DRINKS. This room or separate area of the filling room shall be used only for mixing ingredients and storage of mixed batches.

2. Each BOTTLED WATER and SOFT DRINK plant shall have a separate room for filling and sealing CONTAINERS (commonly called a filling or BOTTLING room). This room shall contain only necessary filling, sealing, electronic inspection, coding, and labeling EQUIPMENT. Only the exit end of the bottle washing machine shall open into this room through a tight-fitting wall. If APPROVED by the DEPARTMENT, the mixing of ingredients and storage of mixed batches may be conducted in this room.

3. ICE for human consumption shall be processed and packaged only in rooms used exclusively for processing and packaging ICE for human consumption. ICE for human consumption shall not be processed or packaged on open platforms or on trucks or delivery vehicles, or in any manner which would allow contamination from overhead drip, condensation, dirt, or other contaminants.

C. Transportation of BULK WATER for BOTTLED WATER plants.

1. BULK WATER shall be from a public water system as APPROVED and defined in R.61-58 by the DEPARTMENT.

2. The means and methods of transporting BULK WATER shall be APPROVED by the DEPARTMENT. Bulk tanks, hoses, pumps, and connections used for loading, transporting, and unloading water shall be SANITIZED. Source water for transport shall be treated with an effective disinfectant APPROVED by the DEPARTMENT at an APPROVED concentration prior to being transported.

3. Tank filling and delivery hose connections shall be cleaned and SANITIZED on a regular basis. The tank shall be sealed at all times except when being filled, being cleaned and SANITIZED, and when the water is being unloaded. A record of such cleaning and SANITIZING shall be maintained with the vehicle and shall be available upon request by the DEPARTMENT. Pumps, hoses, connections, and fittings shall be capped and protected from contamination when not in use. The tank manhole shall not be used as a means of filling the tank. To prevent collapse of the tank during delivery of BULK WATER, the manhole may be opened but shall be provided with an air filter to prevent contamination.

4. All surfaces which come into contact with water during storage prior to transport shall be of smooth, impervious, nonabsorbent, corrosion resistant, and nontoxic material such as stainless steel of the American Iron and Steel Institute 300 Series, or equally corrosion resistant, nontoxic material. All water contact surfaces shall be free of substances that may render the water hazardous to health or may adversely affect the flavor, color, turbidity, odor, radiological, microbiological, or chemical quality of the water.

5. BULK WATER transport is intended to move source water from one area to another for the purpose of treatment, packaging, and human consumption. Such water shall not be dispensed directly to consumers from a BULK WATER transport tank or indirectly through some other vending device, unless otherwise APPROVED by the DEPARTMENT. In case of an emergency, such as a DRINKING WATER shortage or outage, or a contaminated water supply, treated water may be dispensed directly from a properly SANITIZED water transport tank.

D. Returnable CONTAINER cleaning.

1. All returnable CONTAINERS shall be ADEQUATELY, mechanically washed and SANITIZED prior to filling. Unless the CONTAINERS are sealed after washing, they shall be washed immediately prior to filling. Hand cleaning of CONTAINERS is prohibited except as a preliminary to subsequent mechanical washing.

2. Metal and glass CONTAINERS.

(a) All metal and glass CONTAINERS shall be exposed to a minimum three percent (3%) alkali solution of which not less than sixty percent (60%) is caustic soda (sodium hydroxide) by an APPROVED automatic mechanical method for a period of not less than five (5) minutes at a temperature of not less than 130°F, or to an equivalent cleaning and sanitizing process APPROVED by the DEPARTMENT.

(b) CONTAINERS shall be rinsed of all caustic soda with potable water.

3. Polycarbonate CONTAINERS.

(a) Polycarbonate CONTAINERS shall be cleaned with APPROVED non-caustic detergents at their required concentrations by an APPROVED mechanical method.

(b) An APPROVED sanitizing rinse consisting of chlorine, bromine, iodine, quaternary ammonia, or ozonated water at the proper APPROVED temperature/time/concentration must follow the cleaning cycle.

4. A permanent record of key operating parameters of the CONTAINER washer should be maintained. These records or logs should include, but are not limited to, wash temperatures, concentrations of cleaners, concentrations of SANITIZERS, lack of carryover of cleaners or caustic in bottles, and maintenance on the washer. Tests on cleaner/SANITIZER concentrations and carryover should be carried out at start-up and regularly thereafter throughout the shift. All maintenance on the washer should be recorded, such as cleaning or aligning spray jets. All records shall be kept on file at least two (2) years for regulatory inspection. Each washer shall be equipped with an indicating thermometer.

E. Single-service CONTAINERS.

1. Single-service CONTAINERS shall be manufactured from FOOD-grade materials that do not impart odors or tastes to the product, nor contaminate the product with MICROORGANISMS, or toxic or injurious substances.

2. Single-service CONTAINERS shall be packaged and stored in a manner APPROVED by the DEPARTMENT prior to filling.

3. Unless otherwise APPROVED by the DEPARTMENT, all single-service CONTAINERS shall be inverted and rinsed with potable water, then treated by filtered compressed air or vacuumed to remove dust prior to filling.

F. Inspection of returnable CONTAINERS.

1. Bottles.

(a) All empty bottles shall be visually inspected immediately after the final rinse of the washing operation for defects, chips, foreign objects, and unclean product contact surfaces as the bottles pass on a conveyor before a well-illuminated background at a speed slow enough for the inspector to achieve high efficiency.

(b) Dirty bottles shall be removed from the production line and either destroyed or rewashed. Defective bottles shall be removed from the production line and destroyed. When inspectors break bottles for cullet, ADEQUATE protection shall be provided for exposed bottles in the immediate area to prevent glass fragments from entering them.

(c) Electronic inspection devices can be used in addition to visual inspection; however, electronic inspection devices shall not be substituted for visual inspection of returnable bottles without the approval of the DEPARTMENT. Inspectors shall have good eyesight, with or without corrective lenses, and shall be rotated to non-inspection work as often as is necessary to maintain high efficiency.

(d) Returnable bottles shall not be used where their condition or design may prevent proper inspection of the contents thereof.

2. Metal canisters.

(a) All metal canisters shall be visually inspected immediately after the final rinse of the washing operation for the presence of foreign objects or unclean product contact surfaces.

(b) Unclean canisters shall be either immediately returned to the washer or removed to the storage area for unclean canisters.

G. CONTAINER closures.

1. CONTAINER closures shall be manufactured from FOOD-grade materials which do not impart odors or tastes to the product, nor contaminate the product with MICROORGANISMS, or toxic or injurious substances.

2. CONTAINER closures shall be received by the BOTTLING PLANT in an undamaged package sealed by the manufacturer.

3. All CONTAINER closures shall be stored in a clean, dry place protected from insects, rodents, dust, splash, or other contamination. Closures which have been touched on the inner side by the operator, as may occur while adjusting EQUIPMENT, shall be discarded.

4. CONTAINER closures not used during the period of processing operations shall be resealed in their original CONTAINER or stored in an APPROVED tightly covered CONTAINER.

5. Only new CONTAINER closures shall be used.

H. Filling and sealing.

1. CONTAINERS shall be filled and sealed with APPROVED mechanical EQUIPMENT. Manual filling and sealing shall be prohibited, except when otherwise APPROVED by the DEPARTMENT for package sizes in which mechanical sealing EQUIPMENT is not yet readily available.

2. Filling EQUIPMENT which fills glass CONTAINERS under pressure should be provided with an ADEQUATE shield to protect against broken glass entering unsealed CONTAINERS. Whenever a glass bottle breaks while being filled or sealed, the machinery involved shall be stopped and all broken glass shall be removed from parts that touch the opening of bottles or contact the product. This shall be performed in such a manner to protect against transferring broken glass into nearby bottles that have exposed openings.

3. No PERSON or his clothing shall come in contact with any portion of the CONTAINER or EQUIPMENT that might result in contamination of the product.

4. The contents of all imperfectly sealed CONTAINERS shall be discarded.

I. SANITATION OF BOTTLED WATER, SOFT DRINK, AND ICE PLANTS AND DISTRIBUTION STATIONS

1. All BOTTLED WATER, SOFT DRINK, and ICE manufacturers and distributors, regardless of exemption status, shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, and Subpart F - Requirements Applying to Records That Must Be Established and Maintained, as amended.

2. All BOTTLED WATER, SOFT DRINK, and ICE plants and distribution stations that have been granted a Qualified Facility Exemption by the FDA or that are solely engaged in the storage of refrigerated UNEXPOSED PACKAGED FOODS when temperature controls are necessary to prevent PATHOGEN growth shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, Subpart D - Modified Requirements, and Subpart F - Requirements Applying to Records That Must Be Established and Maintained, and be familiar with Subpart E - Withdrawal of a Qualified Facility Exemption, as amended.

3. All BOTTLED WATER, SOFT DRINK, and ICE plants and distribution stations that have not been granted a Qualified Facility Exemption by the FDA shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, Subpart C - Hazard Analysis and Risk -Based Preventive Controls, and Subpart F- Requirements Applying to Records That Must Be Established and Maintained, as amended.

4. All BOTTLED WATER, SOFT DRINK, and ICE plants and distribution stations under an FDA order to withdraw their Qualified Facility Exemption are subject to the requirements of 21 CFR Part 117, Subpart E - Withdrawal of a Qualified Facility Exemption, as amended.

5. BOTTLED WATER, SOFT DRINK, and ICE plants and distribution stations that have not been granted a Qualified Facility Exemption by the FDA and have identified a hazard requiring a supply-chain applied control shall comply with the requirements of 21 CFR Part 117, Subpart G - Supply-Chain Program, as amended.

SECTION X. SUBMISSION OF PLANS

Before a SOFT DRINK, BOTTLED WATER, or ICE plant is constructed or extensively REMODELED, or when an existing structure is converted for use as a SOFT DRINK, BOTTLED WATER, or ICE plant, the BOTTLED WATER, SOFT DRINK, or ICE manufacturer must submit properly prepared plans and specifications for such construction, remodeling, or conversion to the DEPARTMENT for review and approval before construction, remodeling, or conversion. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the make and model number of proposed fixed EQUIPMENT and facilities.

SECTION XI. RECIPROCITY

A. BOTTLED WATER, SOFT DRINKS, and ICE from out of state or outside the United States may be sold in South Carolina only if the DEPARTMENT determines they are manufactured and distributed under provisions substantially equivalent to the requirements of this regulation and ADEQUATELY enforced.

B. Upon receiving from any PERSON, entity, or any regulatory agency outside this state a report of a possible violation of this regulation by a PERMIT HOLDER, the DEPARTMENT may conduct such inspection or investigation as it deems appropriate. Upon receiving information that SOFT DRINKS, BOTTLED WATER, or ICE manufactured outside this state and introduced into this state may have been

manufactured in violation of applicable state or federal LAW, or not in conformance with prevailing and applicable standards and good public health practices, the DEPARTMENT may notify appropriate regulatory authorities located outside this state and request that such authorities take appropriate action.

SECTION XII. OUT-OF-STATE BOTTLED WATER IMPORTS

Due to additional FDA laboratory testing requirements for BOTTLED WATER products, out-of-state water bottlers shall submit the following to the DEPARTMENT: (a) a certification signed by the applicable regulatory agency with jurisdiction over the BOTTLING in the state of origin stating that the plant(s) is permitted or licensed as required, the source water supply meets all EPA public DRINKING WATER requirements, and is operated and maintained in a sanitary manner based on previous plant inspection(s); (b) the name, address, and phone number(s) of all plant(s) manufacturing bottled products for sale in South Carolina; (c) a copy of the latest finished BOTTLED WATER product water analyses (total coliform, inorganic, organic, radiological); and (d) the location(s) where the product(s) may be sampled in South Carolina.

SECTION XIII. RECALL

A. For BOTTLED WATER, SOFT DRINK, and ICE manufacturers and distributors that have not been granted a Qualified Facility Exemption by the FDA, the Recall Plan requirements of 21 CFR 117.139 supersede the requirements of this section.

B. Each SOFT DRINK, BOTTLED WATER, and ICE manufacturer and distributor shall develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any said procedure as necessary with respect to any product for which the PERMIT HOLDER or the DEPARTMENT has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the DEPARTMENT determines, based upon representative samples, RISK analysis, information provided by the SOFT DRINK, BOTTLED WATER, or ICE manufacturer or distributor, and/or other information available to the DEPARTMENT, that the circumstances present an IMMINENT HEALTH HAZARD and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the DEPARTMENT may order the SOFT DRINK, BOTTLED WATER, or ICE manufacturer and/or distributor to initiate a level of product recall or, if appropriate, issue a form of notification to customers. Each SOFT DRINK, BOTTLED WATER, and ICE manufacturer and distributor shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.

SECTION XIV. EQUIPMENT AND FACILITIES IN OPERATION PRIOR TO JULY 1, 2020

A. EQUIPMENT and physical facilities of BOTTLED WATER, SOFT DRINK, and ICE plants and distribution stations in operation prior to July 1, 2020 are deemed in compliance even if they do not meet all construction, EQUIPMENT, and facilities requirements of this regulation if the facilities and EQUIPMENT:

1. are in compliance with the regulatory standards in place for such EQUIPMENT and facilities on January 1, 2020; and

2. are capable of being maintained in a sanitary condition; and

3. are not a public health hazard or nuisance; and

4. are replaced in the normal course of operation with EQUIPMENT and facilities that meet the requirements of this regulation.

B. This section shall not apply to EQUIPMENT installed or construction commenced on or after July 1, 2020.

SECTION XV. PROCEDURE WHEN INFECTION OR HIGH RISK INFECTION IS SUSPECTED

When reasonable cause exists to suspect the possibility of transmission of infection from any PERSON concerned with the handling of BOTTLED WATER, SOFT DRINKS, or ICE products, or their ingredients, the DEPARTMENT is authorized to require any or all of the following measures:

A. The immediate EXCLUSION or RESTRICTION of that PERSON from handling BOTTLED WATER, SOFT DRINKS, and ICE products, or their ingredients;

B. The immediate EXCLUSION or RESTRICTION of the BOTTLED WATER, SOFT DRINKS, and ICE products concerned from distribution and use; and/or

C. ADEQUATE medical and bacteriological examination of the PERSON, of their associates, and of their bodily discharges.

SECTION XVI. ENFORCEMENT PROVISIONS

This regulation is issued under the authority of S.C. Code Ann. Sections 44-1-140 and 44-1-150 and shall be enforced by the DEPARTMENT. Any PERSON found to be in violation of this regulation, in non-compliance with an issued PERMIT, or in violation of an order issued by the DEPARTMENT shall be subject to civil monetary penalties, PERMIT suspension, and/or PERMIT revocation. Each day of continued violation shall be a separate offense.

SECTION XVII. SEVERABILITY CLAUSE

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

~~61-54. Wholesale Commercial Ice Manufacturing.~~

~~TABLE OF CONTENTS:~~

~~SECTION I. PURPOSE~~

~~SECTION II. SCOPE~~

~~SECTION III. DEFINITIONS~~

~~SECTION IV. PERSONNEL~~

~~A. DISEASE CONTROL~~

~~B. CLEANLINESS~~

~~C. EDUCATION AND TRAINING~~

~~D. SUPERVISION~~

~~SECTION V. GROUNDS, BUILDINGS AND FACILITIES~~

~~A. GROUNDS~~

~~B. BUILDING CONSTRUCTION AND DESIGN~~

~~C. WATER SUPPLY~~

~~D. DISPOSAL OF WASTES~~

~~E. PLUMBING~~

- F. TOILET FACILITIES
- G. DRESSING ROOMS AND LOCKER AREAS
- H. HAND WASHING FACILITIES
- I. SANITARY OPERATIONS
- SECTION VI. EQUIPMENT AND UTENSILS
- SECTION VII. PRODUCTION AND PROCESS CONTROLS
 - A. PROCESS CONTROLS
 - B. CLEANING AND SANITIZING OF EQUIPMENT AND UTENSILS
- SECTION VIII. WAREHOUSING AND DISTRIBUTION
- SECTION IX. LABELING
- SECTION X. EXAMINATION AND CONDEMNATION OF UNWHOLESOME OR CONTAMINATED RAW MATERIALS OR FINISHED PRODUCT
- SECTION XI. ICE VENDING MACHINES
- SECTION XII. ENFORCEMENT PROCEDURES
 - A. PERMITS
 - B. SUBMISSION OF PLANS
 - C. INSPECTIONS
 - D. ACCESS
 - E. REPORT OF INSPECTIONS
 - F. RECIPROCITY
 - G. RECALL
 - H. SUSPENSION OF PERMIT
 - I. REVOCATION OF PERMIT
 - J. SERVICE OF NOTICES
 - K. CONTESTED DECISIONS
 - L. ENFORCEMENT PROVISIONS

SECTION I. PURPOSE

~~This regulation sets forth minimum health standards, procedures and practices to ensure that wholesale ice is manufactured in South Carolina in a safe and wholesome manner.~~

SECTION II. SCOPE

~~This regulation shall apply to all persons in South Carolina who manufacture or package ice that will be sold on a wholesale basis for human consumption in South Carolina.~~

SECTION III. DEFINITIONS

~~ADEQUATE shall mean substantial compliance with acceptable health standards, procedures and practices.~~

~~ADULTERATED or ADULTERATION the presence or addition of any harmful or unwholesome substance, article, object, or other ingredients which may dilute or lower the quality of the food product involved or any substance which is prohibited by law or regulation in food product.~~

~~APPROVED acceptable to the Department based on a determination as to conformance with applicable standards and good public health practice.~~

~~CORING shall mean the process of pumping or removing a small amount of water that accumulates in the center of a block of ice in the freezing process. This water is mineral laden and is removed to produce a pure, mineral free block of ice.~~

~~DEPARTMENT~~—the South Carolina Department of Health and Environmental Control acting through its authorized representatives.

~~EASILY CLEANABLE~~—surfaces that are readily accessible and made of such materials and finishes and fabricated in such a way that residue may be effectively removed by normal cleaning methods.

~~EMPLOYEE~~—shall mean any person in an ice plant, or ice production area in any commercial establishment, who transports ice or ice containers, who engages in ice manufacture, processing, packaging, storage, or distribution, or who comes into contact with any ice equipment.

~~EQUIPMENT~~—all grinders, crushers, chippers, ice makers, shavers, scorers, saws, cubers, can fillers, drop tubes, needles, core sucking devices, conveyors, rake bins, augers, baggers, and similar items used in ice plants.

~~FOOD CONTACT SURFACE~~—the surface of any object coming into direct contact with ingredients and finished products during storage and manufacture. This shall include any surface upon which the product routinely may drip, drain, or be drawn into, as part of normal processing.

~~ICE~~—shall mean the product, in any form, obtained as a result of freezing water by mechanical or artificial means.

~~ICE PLANT~~—any commercial establishment, together with the necessary appurtenances, in which ice is manufactured or processed, packaged, distributed, or offered for sale for human consumption on a wholesale basis.

~~ICE VENDING MACHINES~~—any self-service machines that act as stand-alone units, and may operate without full time service personnel. These units are activated by the insertion of money; the ice is bagged automatically or dispensed in bulk outside to the customer.

~~PACKAGED ICE~~—ice products packaged by approved manufacturers and sold through retail outlets.

~~PERSON~~—any individual, plant operator, partnership, company, corporation, trustee, association, or a public or private entity.

~~PEST~~—any animals or insects including, but not limited to, birds, rodents, flies and larvae.

~~PROCESSING~~—the grinding, crushing, flaking, cubing, or any other operation which changes the physical characteristics of ice or packaged ice for human consumption.

~~PRODUCT AREA~~—the production area and all other areas where the product, ingredients, or packaging materials are handled or stored, and shall include any area related to the manufacturing, packing, handling, and storage of ice intended for sale for human consumption.

~~RETAIL ICE MERCHANTS~~—merchants (i.e. convenience stores, grocery stores) who produce ice products and sell directly to their customers; these are regulated under DHEC Regulation 61-25, Retail Food Establishments.

~~SANITIZE~~—means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

~~SHALL~~—the item or condition discussed is mandatory.

~~SHOULD or MAY~~—the item or condition discussed is preferred but not mandatory.

~~SINGLE SERVICE ITEMS~~—those items, such as packaging materials, which are intended by the manufacturer and generally recognized by the public as being for one usage only, then to be discarded.

~~UNPACKAGED ICE~~—ice products from approved manufacturers that are not packaged or put into packets (usually produced in block form).

~~UTENSILS~~—any multi-use cans, buckets, tubs, pails, covers, containers, tongs, picks, shovels, scoops, and similar items used in the manufacture, handling, and transport of ice.

~~UNDESIRABLE MICROORGANISMS~~—those microorganisms which are considered to be of public health significance, which subject food to decomposition, which indicate that food is contaminated with filth, or which otherwise may cause food to be adulterated.

~~WHOLESALE ICE~~—ice products manufactured in large quantities to be sold on the wholesale market.

~~SECTION IV. PERSONNEL~~

~~A. DISEASE CONTROL~~

~~Any person who by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which may contribute to the reasonable possibility of food, food-contact surfaces, or food packaging materials becoming contaminated, shall be excluded from any operations expected to result in such contamination, until the condition is corrected. All personnel shall be instructed to report such health conditions to their supervisors.~~

~~B. CLEANLINESS~~

~~All persons working in direct contact with food, food contact surfaces, and food packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against contamination of food. Methods for maintaining cleanliness to prevent food contamination include, but are not limited to:~~

~~1. Wearing outer garments suitable for the operation in a manner that protects against the contamination of food, food contact surfaces, or food packaging materials.~~

~~2. Maintaining adequate personal cleanliness.~~

~~3. Washing hands thoroughly (and sanitizing, if necessary, to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated. Signs shall be posted reminding employees to wash their hands before returning to work.~~

~~4. Removing all insecure jewelry or other objects which might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it should be covered by material that can be maintained~~

in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food packaging materials.

5. Maintaining gloves used in food handling in an intact, clean, and sanitary condition. These gloves should be of an impermeable material.

6. Where appropriate, wearing in an effective manner, hairnets, headbands, caps, beard covers, or other effective hair restraints.

7. Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.

8. Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.

9. Taking any other necessary precautions to protect against contamination of food, food-contact surfaces, or food packaging materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

C. EDUCATION AND TRAINING

Personnel responsible for identifying sanitation failures or food contamination should have a background in education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles, and should be informed of the danger of poor personal hygiene and unsanitary practices.

D. SUPERVISION

Responsibility for ensuring compliance by all personnel with all requirements of this section shall be clearly assigned to competent supervisory personnel.

SECTION V. GROUNDS, BUILDINGS AND FACILITIES

A. GROUNDS

The grounds around an ice plant under the control of the operator shall be kept in such condition to protect against the contamination of its products. The methods for adequate maintenance of grounds include, but are not limited to:

1. Properly storing equipment, removing litter and waste, and cutting weeds or grass in the immediate vicinity of plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests.

2. Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.

3. Adequately draining areas that may contribute to the contamination of food by seepage, foot-borne filth, or providing a breeding place for pests.

~~4. Operating waste treatment and disposal systems in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.~~

~~B. BUILDING CONSTRUCTION AND DESIGN~~

~~Ice plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food manufacturing purposes and to prevent drip and condensation from fixtures, ducts and pipes from contaminating foods, food contact surfaces or food containers. Sufficient space shall be provided for the placement of equipment and storage of materials as deemed necessary for the proper maintenance of sanitary operations and production of safe food. Ice plants shall meet, but not be limited to, the following:~~

~~1. Required Rooms~~

~~Ice for human consumption shall be processed and packaged only in rooms used solely for those operations. Ice for human consumption shall not be processed or packaged on open platforms or on trucks or delivery vehicles, or in any manner which would permit contamination from overhead drip, condensation, dirt or other contaminants.~~

~~2. Floors~~

~~(a) The floors of the ice manufacturing rooms shall be constructed of concrete or equally impervious, easily cleanable material, and shall be kept clean, in good repair, and properly sloped to trapped drains to prevent pools of standing water after flushing.~~

~~(b) The floors of ice storage, packaging and accessory rooms shall be easily cleanable, and be kept clean and in good repair at all times.~~

~~3. Walls and Ceilings~~

~~The walls and ceilings in ice manufacturing, packaging, storage and accessory rooms shall be smooth, washable and kept clean and in good repair at all times.~~

~~4. Lighting~~

~~(a) Adequate lighting shall be provided in all areas of the plant. A minimum of 20 foot-candles of light should be provided in all working areas, and a minimum of 10 foot-candles in all storage areas.~~

~~(b) Adequate protection from glass breakage and falling debris shall be provided for all light bulbs and fixtures located over exposed food or unsealed packages in any step of preparation.~~

~~5. Ventilation~~

~~(a) Adequate ventilation or control equipment shall be provided to minimize odors, vapors and moisture from accumulating in areas where ice for human consumption is manufactured.~~

~~(b) Pressurized ventilating systems shall have a filtered air intake.~~

~~(c) Fans and other air moving equipment shall be located and operated in a manner minimizing the potential for contaminating food and unsealed packages.~~

6. ~~Doors and Windows~~

~~(a) All openings into ice manufacturing rooms shall be adequately protected against the entrance of dust and insects by tight fitting, self-closing doors, closed windows, screening, air curtains, vinyl or rubber strip curtains, or by other means approved by the Department.~~

~~(b) Screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings into ice manufacturing rooms shall be tight fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the inch.~~

C. ~~WATER SUPPLY~~

~~Each ice plant shall be equipped with adequate facilities and accommodations including, but not limited to, the following:~~

- ~~1. The water supply shall be from a public water system approved by the Department.~~
- ~~2. The design, operation and maintenance of water purification systems used to further treat potable water shall be approved by the Department. They shall not be operated beyond their rated capacity and shall be maintained in a clean, sanitary condition at all times. If water is treated at the ice plant, the use of chemicals and additives shall be in accordance with regulations promulgated under the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act.~~
- ~~3. Potable running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the ice manufacturing, for the cleaning of equipment, utensils, and containers, and for employee sanitary facilities.~~
- ~~4. All water storage and cooling tanks shall be of noncorrosive material, properly covered, air vents properly filtered, clean, free from dust both inside and outside, and the inlet and outlet so arranged as to prevent contamination during filling and emptying.~~

D. ~~DISPOSAL OF WASTES~~

- ~~1. All liquid wastes shall be disposed of by connection to a public sewer or as approved by the Department.~~
- ~~2. Rubbish, refuse, and garbage shall be so handled, stored and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces and water supplies~~

E. ~~PLUMBING~~

~~Plumbing shall meet all applicable state and local plumbing laws, ordinances and regulations, and shall be sized, installed and maintained to:~~

- ~~1. Carry sufficient quantities of water to required locations throughout the ice plant.~~
- ~~2. Properly convey sewage and liquid disposable waste from the ice plant.~~
- ~~3. Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils or create an unsanitary condition.~~

~~4. Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.~~

~~5. Prevent backflow or back-siphonage from, or cross-connection between, piping systems discharging wastewater or sewage and piping systems carrying water for ice manufacturing.~~

~~6. Non-potable water piping shall not be connected to equipment or have outlets in the brine circulation tanks.~~

~~F. TOILET FACILITIES~~

~~1. Toilet facilities shall be approved by the Department, shall be adequate, conveniently located, accessible to employees at all times, and shall conform to applicable building and plumbing codes.~~

~~2. Toilet room floors shall be easily cleanable. Toilet room floors should be properly sloped to trapped drains.~~

~~3. Toilet room walls and ceilings shall be of sound construction. Toilet room walls shall be smooth and washable to at least a wainscot height.~~

~~4. Toilet rooms shall not open directly into ice production or storage rooms.~~

~~5. Toilet room doors shall be self-closing.~~

~~6. Toilet rooms shall be adequately ventilated. Toilet room windows opened for ventilation shall be properly screened.~~

~~7. Toilet rooms shall be kept clean, in good repair and free of insects at all times.~~

~~8. Approved hand-washing signs shall be posted in each toilet room used by production employees.~~

~~9. Toilet tissue, soap, individual towels and trash receptacles shall be provided.~~

~~G. DRESSING ROOMS AND LOCKER AREAS~~

~~1. If employees routinely change clothes within the ice plant, rooms or areas shall be designated and used for that purpose and shall be kept clean and in good repair.~~

~~2. Adequate lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings and shall be kept clean. Personnel lockers shall not be located in ice manufacturing, packaging, or storage rooms.~~

~~H. HAND-WASHING FACILITIES~~

~~1. An adequate number of lavatories, convenient to toilet rooms and production areas, shall be provided.~~

~~2. Each lavatory shall be provided with hot and cold running water, soap and approved sanitary towels, or other approved hand-drying devices. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities.~~

I. SANITARY OPERATIONS

1. General Maintenance

Buildings, fixtures, and other physical facilities of the ice plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the ice plant. These materials shall be identified, used only in such manner and under conditions as will be safe for their intended uses, and stored in an approved area and manner so as to minimize the danger of contamination of food and food contact surfaces.

2. Animal and Vermin Control

No animals or birds shall be allowed in any area of the ice plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues. Insecticides and rodenticides shall be properly labeled and stored in an approved area and manner so as to minimize the danger of contamination of food and food contact surfaces.

SECTION VI. EQUIPMENT AND UTENSILS

A. All ice plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained and kept clean and in good repair. The design, construction and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal and glass fragments, contaminated water, or any other contaminants. Only food grade equipment lubricants shall be used and equipment lubrication shall not contaminate the ice.

B. All equipment shall be so installed and maintained to facilitate the cleaning of the equipment and all adjacent spaces.

C. All food contact surfaces shall be corrosion resistant when in contact with food and shall be made of nontoxic materials and designed to withstand the environment of their intended use and any corrosive action by the food, cleaning compounds and sanitizing agents. Seams on food contact surfaces shall be smoothly bonded. Conveyor surfaces shall be of impervious material and shall protect ice from contaminants that may result from shredding, flaking, peeling, or fragmentation of the conveyor surface.

D. All equipment shall be designed to prevent food contact surfaces from being contaminated by clothing or personal contact.

E. All equipment shall be constructed so that drip or condensation from fixtures, ducts, pipes, etc., does not contaminate food, food contact surfaces or food packaging materials.

F. All equipment that is in the manufacturing or food handling areas and that does not come in contact with food shall be so constructed that it can be kept in a clean condition.

~~G. Approved washable covers shall be provided over exposed containers prior to filling and between filling and sealing in all areas where contamination is reasonable possible.~~

~~H. Air for water agitation shall be filtered and free of contaminants. The compressor used to supply air for water agitation shall be designed to deliver oil free air. Air lines and core sucking (vacuum) devices shall be used as needed to produce ice free of rust or other foreign materials.~~

~~I. Ice cans shall be leak proof and the inner surfaces of such containers shall be free of corrosion. Freezing tank covers of acceptable materials shall be designed and constructed to protect ice containers from splash, drip, and other contamination. They shall be easily cleanable and kept clean and in good repair. Such covers shall be equipped with rings or similar devices when hooks are used for pulling. Can or tank covers, and the ledges or sides of the tank upon which the cover rests, shall be cleaned as often as necessary to keep them in a sanitary condition.~~

~~SECTION VII. PRODUCTION AND PROCESS CONTROLS~~

~~A. PROCESS CONTROLS~~

~~1. All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging and storing of food shall be conducted in accordance with adequate sanitation principles.~~

~~2. Appropriate quality control operators should be employed to ensure that food is suitable for human consumption and that food packaging materials are safe and suitable. Overall sanitation of the ice plant shall be under the supervision of one or more competent individuals assigned responsibility for this function. All reasonable precautions shall be taken to ensure that production procedures do not contribute contamination from any source.~~

~~3. Chemical, microbiological, or extraneous material testing procedures shall be used, where necessary, to identify sanitation failures or possible food contamination. All food that has become adulterated shall be rejected, or if permissible, treated or processed to eliminate the contamination.~~

~~4. Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into ice manufacturing and shall be stored under conditions that will protect against contamination and minimize deterioration.~~

~~5. Raw materials and other ingredients shall be properly labeled and stored in containers designed and constructed so as to protect against contamination.~~

~~6. Ice products manufactured for human consumption shall not be stored, transported, processed or bagged through equipment or lines used for any non-food product.~~

~~7. Adequate provisions shall be made so that hands shall not come in direct contact with the ice at any time during manufacturing, processing, packaging, and storage.~~

~~8. Packaging shall be done with non-toxic materials and in a sanitary manner. All packaged ice products must be tightly sealed. Bags used for the packaging of ice shall be stored in a dry rodent and dust proof environment. The storage of packaging supplies shall be on pallets or raised above floor level and all partially used supplies shall be kept in closed containers. The bags shall be of sound strength and quality to prevent fracture or tearing during handling and be constructed of FDA approved materials. Bags shall be restricted for reuse, or repackaging.~~

9. All frozen unpackaged ice blocks intended for sale for human consumption or for the refrigeration of food products shall be washed thoroughly with potable water, packed and handled in a manner to prevent contamination. Water used for rinsing or washing shall not be reused and shall be disposed of as liquid waste. Only potable water shall be used in sprays and in the thaw tanks for the removal of ice from cans. Ice shall not come in direct contact with water in dipping wells.

~~B. CLEANING AND SANITIZING OF EQUIPMENT AND UTENSILS~~

~~All utensils and food contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Non food contact surfaces of equipment used in the operation of ice plants shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles and other debris. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and food contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruptions during which such utensils and food contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the food contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. All cleaning and sanitizing agents shall be free of undesirable microorganisms, shall be safe and adequate under the conditions of use, shall have labels which properly identify the contents, and shall be properly stored. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment. All cleaned and sanitized equipment and utensils shall be transported and stored to assure complete drainage and stored in a manner that protects the food contact surfaces from contamination.~~

~~SECTION VIII. WAREHOUSING AND DISTRIBUTION~~

~~A. All product storage and holding areas are to be refrigerated and shall be cleaned as often as necessary to keep them free of contamination.~~

~~B. While being transported or delivered, ice shall be protected from contamination from dust, dirt, or any other sources. The ice compartment of vehicles used to transport or deliver ice shall be of cleanable construction and shall be kept clean and in good repair. The ice compartment used for transport or delivery shall be insulated or refrigerated to maintain the ice in a frozen state. Vehicles used to transport unpackaged ice shall be constructed to be fully enclosed. All interior surfaces shall be constructed of food grade quality materials and shall be thoroughly cleaned prior to each loading.~~

~~SECTION IX. LABELING~~

~~All packaged ice labeling shall conform to applicable federal and state labeling laws.~~

~~SECTION X. EXAMINATION AND CONDEMNATION OF UNWHOLESOME OR CONTAMINATED RAW MATERIALS OR FINISHED PRODUCT~~

~~A. Samples of ice and other substances shall be taken and examined by the Department as often as may be necessary for the detection of unwholesomeness or adulteration.~~

~~B. The Department may condemn and forbid the sale of, or cause to be removed and destroyed, any ice or products which are unwholesome or adulterated.~~

SECTION XI. ICE VENDING MACHINES

~~A. Owner/operators of ice vending machines within the state must file an application provided by the Department. This application shall include name and address of ice vending machine's owner/operator, location, products to be manufactured, applicant's signature and such other information deemed necessary by the Department to determine compliance with this regulation. However, no permit will be issued. This information will be held on file for the purpose of compliant investigations or product sampling for detection of unwholesomeness or adulteration, or any other circumstance which may constitute an imminent hazard to public health.~~

~~B. All ice vending machines must be properly connected to Department approved water supply and sewage disposal facilities.~~

SECTION XII. ENFORCEMENT PROCEDURES

A. PERMITS

~~1. It shall be unlawful for any person to manufacture wholesale ice products in South Carolina without a valid permit issued by the Department for the specific ice plant. Permits are not transferable.~~

~~2. Any person desiring to manufacture wholesale ice products in South Carolina shall make written application for a permit on the appropriate application form provided by the Department. This form shall include name and address of the ice plant's owner; the location and type of the facility; the type of products to be manufactured; the applicant's signature; and such other information deemed necessary by the Department to determine compliance with this regulation.~~

~~3. A permit is valid as long as the ice plant continues in operation under the same ownership or until the permit is revoked or suspended.~~

~~4. Any retail facility that produces and bags ice for sale to the public shall have a permit issued under Regulation 61-25, Retail Food Establishments.~~

B. SUBMISSION OF PLANS

~~When an ice plant is constructed or extensively remodeled and when an existing structure is converted for use as an ice plant, properly prepared plans and specifications for such construction, remodeling, or conversion should be submitted to the Department for review and approval before construction, remodeling, or conversion. The plans and specifications should indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the make and model number of proposed fixed equipment and facilities. The Department shall approve the plans and specifications if they meet the requirements of this regulation. In the absence of plan approval, issuance of the ice plant permit shall be determined by compliance with all applicable requirements of this regulation.~~

C. INSPECTIONS

~~Inspections of ice plants shall be performed as frequently as deemed necessary to insure compliance with this regulation.~~

D. ACCESS

~~Representatives of the Department, after proper identification, shall be permitted to enter any ice plant at any reasonable time for the purpose of making inspections to determine compliance with this regulation. The representatives shall be permitted to examine the records of the establishment to ascertain information relative to the purchasing, receiving, and use of such food products or other supplies used in the manufacturing of wholesale ice products. It shall be unlawful for any representatives of the Department who, in an official capacity, obtain any information under the provisions of this regulation which is entitled to protection as a trade secret (including information as to quantity, quality, source or disposition of wholesale ice products, or results of inspections or tests thereof) to use such information to their own advantage or to reveal it to any unauthorized person.~~

~~E. REPORT OF INSPECTIONS~~

~~When an inspection of an ice plant is conducted, a copy of the completed inspection report form shall be furnished to the permit holder, manager or other duly authorized representative.~~

~~F. RECIPROCITY~~

~~Upon receiving from any person, entity, or any regulatory agency outside this state, a report of a possible violation of this regulation by a permit holder, the Department may conduct such inspection or investigation as it deems appropriate. Upon receiving information that wholesale ice products manufactured in the state or imported from other states and introduced into this state may have been manufactured in violation of applicable state or federal law or not in conformance with prevailing and applicable standards and good public health practices, the Department may notify appropriate regulatory authorities located outside this state and request that such authorities take appropriate action.~~

~~G. RECALL~~

~~Each ice plant operator shall develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any of these procedures as necessary with respect to any product for which the operator or the Department knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the Department determines, based upon representative samples, risk analysis, information provided by the ice supplier, and other information available to the Department, that the circumstances present an imminent hazard to the public health and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the Department may order the ice supplier to initiate a level of product recall or, if appropriate, issue a form of notification to customers. The ice supplier shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.~~

~~H. SUSPENSION OF PERMIT~~

~~1. Permits may be suspended temporarily by the Department for repeated violation of the same requirement on two consecutive inspections, for total number of violations, or for interference with the Department in the performance of its duty. Prior to permit suspension, the Department shall notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit is to be suspended and that the permit shall be suspended at the end of the 15 days following service of such notice. While the permit is suspended, ice operations shall immediately cease, and the permit shall remain suspended until the reasons for the suspension have been corrected.~~

~~2. The Department may, without warning or notice, suspend the permit to operate an ice plant when it is determined that the operation of the ice plant constitutes an imminent hazard to public health. Following immediate permit suspension, all ice manufacturing operations shall immediately cease. The Department~~

shall promptly notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit was suspended.

I. REVOCATION OF PERMIT

~~1. The permit may be revoked for failure to correct deficiencies within prescribed time limits or for repeated violations of any of the requirements of this regulation on two consecutive inspections, or for the interference with the Department in the performance of duty.~~

~~2. Prior to revocation, the Department shall notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit is to be revoked and that the permit shall be revoked at the end of the 15 days following service of such notice.~~

~~3. Any person whose permit is revoked shall not be eligible to apply for repermitting within one year from the date of revocation. Any person whose permit has previously been revoked and who obtains a subsequent permit and violates the provisions of this regulation, resulting in revocation of the ice plant's permit for the second time, shall not be granted another permit.~~

J. SERVICE OF NOTICES

~~A notice provided for in this regulation is properly served when it is delivered to the permit holder, manager or other duly authorized representative, or when it is sent by registered or certified mail, return receipt requested and delivery restricted to the addressee, to the last known address of the ice plant's permit holder.~~

K. CONTESTED DECISIONS

~~A Department decision involving the issuance, denial, suspension, or revocation of a permit may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.~~

L. ENFORCEMENT PROVISIONS

~~This regulation is issued under the authority of South Carolina Code Ann. Section 44-1-140 (1976, as amended) and shall be enforced by the Department. Violation of this regulation shall be punishable in accordance with South Carolina Code Ann. Section 44-1-150 (1976, as amended).[Repealed].~~

Fiscal Impact Statement:

There are no anticipated new costs associated with the implementation of this regulation to the state or its political subdivisions.

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:

61-32, Soft Drink and Water Bottling Plants; and
61-54, Wholesale Commercial Ice Manufacturing.

Purpose: This amendment strikes the text of the existing regulations in total, repeals the text of R.61-54, and combines the revised text of both to align with current applicable federal standards. The existing regulations are based on 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, which has been replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The new federal regulation updates good manufacturing processes to be implemented by the regulated community and incorporates new preventive controls for minimizing or preventing food safety hazards.

Legal Authority: 1976 Code Sections 44-1-140 and 44-1-150.

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 and repeals. 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 repeals and any associated information.

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

The purpose of R.61-32, Soft Drink and Water Bottling Plants, and R.61-54, Wholesale Commercial Ice Manufacturing, is to safeguard public health and provide consumers safe, unadulterated soft drinks, bottled water, and wholesale ice products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of soft drinks, bottled water, and wholesale ice products. The regulations are based on Title 21, Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, (21 CFR Part 110).

The Department of Health and Environmental Control (Department) last amended R.61-32 in 2004 and R.61-54 in 2008. Earlier this year, 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, was replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. There have been numerous changes in the manufactured food and beverage industry, including changes to food and beverage handling practices, food and beverage equipment technology, and food and beverage preparation processes, making R.61-32 and R.61-54 outdated. The new federal regulation updates good manufacturing processes to be implemented by the regulated community and incorporates new preventive controls for minimizing or preventing food safety hazards.

The Department is amending the provisions of R.61-32 and R.61-54 to incorporate the standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing manufactured water-based products into one streamlined regulation, instead of two separate regulations with repetitive content.

The amendments to these regulations serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. In addition to clarification and updating of state-specific regulatory provisions, these amendments incorporate current federal standards which have replaced preexisting federal standards upon which the Department's existing, unrevised regulations are based. This serves to reduce administrative burdens on the regulated community by facilitating streamlined inspections and compliance under both state and federal requirements.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of this regulation. The amendments will benefit public health by ensuring safe, unadulterated bottled water, soft drinks, and wholesale ice products from manufacturing plants and throughout the distribution chain. The amendments to these regulations serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. Furthermore, industry will benefit by only having an aligned set of rules to comply with for federal inspections that may be conducted by the FDA, those conducted by the Department for the FDA, and those conducted for the state under this regulation. Such alignment also allows for facilities to undergo one inspection, conducted by the Department under this regulation, to satisfy both federal and state oversight. The amendments also combine provisions governing manufactured water-based products into one streamlined regulation, instead of two separate regulations with repetitive content.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of this regulation will not compromise the protection of the environment or the public health. The regulation will help to ensure that consumers are receiving safe, unadulterated bottled water, soft drinks, and wholesale ice products. The amendment of R.61-32 to conform to the most recent federal regulation provides effective means of reducing the risks of foodborne illnesses within food manufacturing plants, thus protecting consumers and industry from potentially devastating public health consequences and financial loss. Incorporation of the Food Safety Modernization Act compliant 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food, and the new preventive controls provision for minimizing or preventing food safety hazards allows for better training and understanding of risk by those in charge of food safety in processing plants.

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

There will be no adverse effect on the environment if the regulations are not implemented.

Failure to adopt these amendments would prevent implementation of the latest sanitary standards and a comprehensive approach to food safety management needed in addressing food and beverage protection in the manufactured water-based products industry. This could have a detrimental effect on the health of South Carolina's citizens and visitors.

Statement of Rationale:

The Department is promulgating these amendments to ensure safe, unadulterated bottled water, soft drinks, and wholesale ice products from manufacturing plants and throughout the distribution chain. Furthermore, the amendments allow for one inspection, conducted by the Department under this regulation, to satisfy both federal and state oversight. The amendments also combine provisions governing manufactured water-based products into one streamlined regulation, instead of two separate regulations with repetitive content.

Date: December 12, 2019

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

From: Bureau of Environmental Health Services

Re: Public Hearing for Notice of Final Regulation Amending R.61-36, *Frozen Desserts*, and Repealing R.61-35, *Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products*, Document No. 4902

I. Introduction

The Bureau of Environmental Health Services (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-36, *Frozen Desserts*, revising and merging the requirements of R.61-35, *Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products*, into R.61-36, and repealing the existing R.61-35. Along with these amendments, the Department is adding regulatory requirements for manufacturing cheese, butter, and other non-grade “A” milk products to R.61-36, *Frozen Desserts*, and changing its title. Legal authority resides in S.C. Code Sections 44-1-140 and 44-1-150, which allow the Department of Health and Environmental Control (“Department”) to promulgate regulations for the production, storing, labeling, transportation, and selling of milk and milk products, filled milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic milk products, milk derivatives, and any other products made in semblance of milk or milk products. Furthermore, 44-1-150 allows for the enforcement of orders related to violations of these regulations. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments and repeal.

II. Facts

1. The purpose of R.61-36, *Frozen Desserts*, and R.61-35, *Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products*, is to safeguard public health and provide consumers safe, unadulterated frozen dessert and imitation dairy food products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of frozen desserts and imitation dairy foods that are not regulated as “Grade A” milk under the provisions of R.61-34, *Raw Milk for Human Consumption*, or R.61-34.1, *Pasteurized Milk and Milk Products*. The current regulations are based on Title 21, *Food and Drugs*, Part 110, *Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food* of the Code of Federal Regulations (21 CFR Part 110), which has now been replaced with 21 CFR Part 117, *Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food*. The new federal regulation updates good manufacturing processes and incorporates new preventive controls for minimizing or preventing food safety hazards.

2. The Bureau proposes amending the provisions of R.61-36 and R.61-35 to incorporate standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing all manufactured dairy products into one streamlined regulation, instead of separate regulations with repetitive content. As part of this new streamlined regulation, the Bureau is adding requirements for manufacturing cheese, butter, and other non-grade “A” milk products. The South Carolina Department of Agriculture previously oversaw requirements for cheese and butter products (also under 21 CFR Part 110, *Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food*); however, per agreement between the two agencies, the Department has assumed oversight responsibility with respect to these products. To achieve this more functional, streamlined regulation, the Bureau is repealing R.61-35 and combining its revised provisions into R.61-36. This also includes amending the title of R.61-36 to

“Manufactured Grade Dairy Products.” The amendments also include other changes not required by federal law, including updates from the current Pasteurized Milk Ordinance (“PMO”) and additions, updates, and clarifications to administrative requirements, enforcement requirements, and definitions, as well as other changes deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation.

3. The proposed amendments to these regulations serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. In addition to clarification and updating of state-specific regulatory provisions, these amendments incorporate current federal standards, which have replaced preexisting federal standards upon which the Department’s existing, unrevised regulations are based. This serves to reduce administrative burdens on the regulated community by facilitating streamlined inspections and compliance under both state and federal requirements.

4. The Department had a Notice of Drafting published in the April 26, 2019, *State Register*.

5. The Bureau held stakeholder meetings on July 18, 2019, in Charleston and July 25, 2019, in Anderson. The Bureau emailed information for meeting attendance to all permitted facilities, along with a proposed draft of the regulation to facilitate discussion. The Department also posted the information and draft regulation on the DHEC manufactured food web page to reach as broad an audience as possible.

6. Appropriate Department staff conducted an internal review of the proposed amendments and repeal on July 29, 2019.

7. The Department had a Notice of Proposed Regulation published in the September 27, 2019, *State Register*. The Department received no public comments by the October 28, 2019, close of the public comment period.

8. The Bureau held additional stakeholder meetings on October 3, 2019, in Charleston and October 10, 2019, in Anderson. The Bureau emailed information for meeting attendance to all permitted facilities, along with a copy of the proposed regulation to facilitate discussion. The Department also posted the information and proposed regulation on the DHEC manufactured food web page to reach as broad an audience as possible.

III. Request for Approval

The Bureau respectfully requests the Board to find need and reasonableness of the attached amendment of R.61-36, *Frozen Desserts*, and repeal of R.61-35, *Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products*, for submission to the General Assembly.



Renee G. Shealy
Chief, Bureau of Environmental Health Services



Myra C. Reece
Director, Environmental Affairs

Attachment:

A. Notice of Final Regulation

ATTACHMENT A

**STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.61-36, *Frozen Desserts*, and R.61-35, *Imitation Milk, Imitation Milk Products, and Products
Made in Semblance of Milk and Milk Products*.**

December 12, 2019

Document No. 4902

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-1-140(3) and 44-1-150

61-35. Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products.

61-36. Frozen Desserts.

Synopsis:

The purpose of R.61-36, Frozen Desserts, and R.61-35, Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products, is to safeguard public health and provide consumers safe, unadulterated frozen dessert and imitation dairy food products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of frozen desserts and imitation dairy foods that are not regulated as “Grade A” milk under the provisions of R.61-34, Raw Milk for Human Consumption, or R.61-34.1, Pasteurized Milk and Milk Products. The regulations are based on Title 21, Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food of the Code of Federal Regulations (21 CFR Part 110).

The Department of Health and Environmental Control (“Department”) last amended R.61-36 in 2004. Earlier this year, 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food was replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. There have been numerous changes in the manufactured food industry, including changes to food handling practices, food equipment technology, and food preparation processes, making R.61-36, Frozen Desserts, and R.61-35, Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products, outdated. The new federal regulation updates good manufacturing processes and incorporates new preventive controls for minimizing or preventing food safety hazards.

The Department is amending the provisions of R.61-36 and R.61-35 to incorporate standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing all manufactured dairy products into one streamlined regulation, instead of separate regulations with repetitive content. As part of this new streamlined regulation, the Department is adding requirements for manufacturing cheese, butter, and other non-grade “A” milk products. The South Carolina Department of Agriculture previously oversaw requirements for cheese and butter products (also under 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food); however, per agreement between the two agencies, the Department has assumed oversight responsibility with respect to these products.

To achieve this more functional, streamlined regulation, the Department is repealing R.61-35 and combining its revised provisions into R.61-36. This includes amending the title of R.61-36 to “Manufactured Grade Dairy Products.”

The amendments also entail changes not required by federal law, including updates from the current Pasteurized Milk Ordinance (“PMO”) and additions, updates, and clarifications to administrative requirements, enforcement requirements, and definitions, as well as other changes deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation. These changes include stylistic changes such as corrections for clarity and readability, grammar, punctuation, references, codification, and overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

Instructions:

Repeal R.61-35 in its entirety from the South Carolina Code of Regulations. Replace R.61-36 in its entirety with this amendment.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

~~61-35. Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products.~~

~~SECTION 1. Definitions.~~

~~A. Imitation milk and milk products are products which are made to resemble in form and are intended to be used as substitutes for milk and/or milk products as defined in the South Carolina Department of Health and Environmental Control’s Rules and Regulations Governing Milk and Milk Products and which have been determined to be nutritionally inferior to the milk or milk products they are intended to imitate. (The standards for milk and milk products as published in the Milk Industry Foundation Labeling Manual, March 1974, will be used to determine if a product is nutritionally inferior.)~~

~~B. Products made in semblance of milk and milk products are products which are made to resemble in form and are intended to be used in substitution for milk and/or milk products and which are determined not to be nutritionally inferior to milk and/or milk products.~~

~~C. The fat content and solids not fat for imitation milk, imitation milk products, and products made in semblance of milk and milk products shall meet the minimum standards for the milk or milk product which it imitates or resembles. To each quart of imitation milk, imitation lowfat milk, imitation skim milk, and products made in semblance of these products, 400 U.S.P. units of Vitamin D and 2000 U.S.P. units of Vitamin A shall be added.~~

~~D. Any imitation milk, imitation milk products and products made in semblance of milk and milk products shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulation, or in excess of such tolerance if one has been established; (3) if it consists, in whole or in part, of any substance unfit for human consumption; (4) if it has been produced, processed, prepared, packed, or held under~~

insanitary conditions; (5) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

E. Imitation milk, imitation milk products and products made in semblance of milk and milk products are misbranded (1) when their container(s) bear or accompany any false or misleading written, printed or graphic matter; (2) when such products do not conform to their definitions as contained in these regulations; and (3) when such products are not labeled in accordance with Section 2 of these regulations.

SECTION 2. Labeling.

A. The label must be readable and understandable and shall not contain any misleading or false statements. All ingredients must be identified by their common name, and nutritional information must be shown. Vegetable and animal fats used must be identified by source. Imitation products shall be labeled "Imitation" followed by the name of the milk or milk product imitated. Labels for imitation products containing no dairy ingredient shall also show the term "non-dairy product". Imitation products containing dairy products and/or dairy ingredients shall show, following the name of the imitation products, the name of the specific dairy product(s) and/or dairy ingredient(s) contained.

B. Products made in semblance of milk and milk products shall comply with labeling requirements stated in Section #2A, for imitation milk and milk products. A fanciful name may be used and/or the word "imitation".

SECTION 3. Sanitation, Bacteriological, Chemical, and Temperature Standards.

Sanitation requirements for processing, packaging, and distribution of imitation milk, imitation milk products, and products made in semblance of milk and milk products shall be the same as those for Grade A pasteurized milk and milk products. (Section 7, Item IP-22P, Rules and Regulations Governing Milk and Milk Products, South Carolina Department of Health and Environmental Control, 1968, as amended). Chemical, bacteriological, and temperature standards shall be the same as those shown for Grade A pasteurized milk and milk products. (Section 7, Chemical, Bacteriological, and Temperature Standards for Grade A Milk and Milk Products, Rules and Regulations Governing Milk and Milk Products, South Carolina Department of Health and Environmental Control, 1968, as amended).

SECTION 4. Adulterated or Misbranded Imitation Milk, Imitation Milk Products and Products Made in Semblance of Milk and Milk Products.

No person shall within the state of South Carolina or its police jurisdiction, process, provide, sell, offer, or expose for sale, or have in possession with intent to sell any imitation milk, imitation milk products or products made in semblance of milk and milk products which is adulterated or misbranded. Any adulterated or misbranded imitation milk, imitation milk product or products made in semblance of milk and milk products may be impounded by the Department of Health and Environmental Control and disposed of in accordance with applicable laws and regulations.

Imitation milk, imitation milk products and products made in semblance of milk or milk products shall be examined or sampled by the Department of Health and Environmental Control as often as necessary to determine freedom from adulteration or misbranding. The Department of Health and Environmental Control may upon written notice to the owner or person in charge place a hold order on any imitation milk, imitation milk products, or products made in semblance of milk and milk products which he determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Under a hold order, products shall be permitted to be suitably stored.

~~SECTION 5. Permits.~~

~~It shall be unlawful for any person who does not possess a permit from the Department of Health and Environmental Control to process and package, have in storage, or otherwise offer for sale any products defined in these regulations.~~

~~In addition, requirements contained in Section 3 "Permits" in the Rules and Regulations Governing Milk and Milk Products, South Carolina Department of Health and Environmental Control, 1968, as amended, which are applicable shall be required for the processing, storage and offering for sale of products defined.~~

~~SECTION 6. Inspections of Plants.~~

~~Each plant, storage facility, and distribution station located in South Carolina whose products are defined in these regulations shall be inspected by the South Carolina Department of Health and Environmental Control prior to the issuance of a permit. Following the issuance of a permit, each plant, storage facility, and distribution station shall be inspected at least once every three months. Should the violation of any sanitation requirement set forth in Section 3 be found to exist, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three days have elapsed; the reinspection shall be used to determine compliance with sanitation requirements of Section 3. Any violation of the same sanitation requirement in Section 3 on such reinspection shall call for permit suspension in accordance with Section 5 (Permits).~~

~~SECTION 7. The Examination of Imitation Milk, Imitation Milk Products and Products Made in Semblance of Milk and Milk Products.~~

~~The examination of products defined in these regulations shall be conducted in accordance with the applicable standards and procedures contained in Section 6 of the Rules and Regulations Governing Milk and Milk Products, South Carolina Department of Health and Environmental Control, 1968, as amended.~~

~~SECTION 8. Imitation Milk, Imitation Milk Products and Products Made in Semblance of Milk and Milk Products from Points Beyond the Limits of Routine Inspection.~~

~~Products, defined in these regulations and processed and packaged outside the geographic limits of routine inspection of the South Carolina Department of Health and Environmental Control, or its police jurisdiction, may be sold in South Carolina, or its police jurisdiction, provided they are processed and packaged under routine official supervision, in compliance with standards, rules and regulations substantially equivalent to those applicable to like products processed and packaged in South Carolina.~~

~~SECTION 9. Personnel Health.~~

~~No person affected with any disease in a communicable form, or while a carrier of such disease, shall work at any plant or distribution station in any capacity which brings him in contact with the production, handling, storage, or transportation of products defined in these regulations, containers, equipment, or utensils; and no plant owner or manager shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any plant owner or manager in whose plant any communicable disease occurs, or who suspects that any employee has contracted any disease in a communicable form, or has become a carrier of such disease, shall notify the Department of Health and Environmental Control.~~

~~SECTION 10. Procedure When Infection is Suspected.~~

~~When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of products defined in these regulations, the health authority is authorized to require any or all of the following measures:-~~

- ~~1. The immediate exclusion of that person from product handling.-~~
- ~~2. The immediate exclusion of the product concerned from distribution and use.-~~
- ~~3. Adequate medical and bacteriological examination of the person, or his associates, and his and their body discharges.-~~

~~SECTION 11. Reference to Rules and Regulations Governing Milk and Milk Products.-~~

~~In addition to definitions and requirements contained in these regulations, all requirements contained in Rules and Regulations Governing Milk and Milk Products, South Carolina Department of Health and Environmental Control, 1968, as amended, which are applicable shall be required for the processing, storing, and offering for sale of imitation milk, imitation milk products, and products made in semblance of milk and milk products.-~~

~~SECTION 12. Enforcement.-~~

~~These regulations shall be enforced by the health authority, in accordance with interpretations and public health reasons approved by the South Carolina Department of Health and Environmental Control.-~~

~~SECTION 13. Penalties.-~~

~~Violations of these regulations shall be punishable in accordance with Section 44-1-150, Code of Laws of South Carolina, 1976, by fine not exceeding \$100 or imprisonment not exceeding 30 days; and each day of continued violation shall be a separate offense.-~~

~~SECTION 14. Repeal and Date of Effect.-~~

~~These regulations shall be in full force and effect immediately after their adoption and publication; and, at that time all regulations and part of regulations in conflict with this regulation are hereby repealed.-~~

~~SECTION 15. Unconstitutionality Clause.-~~

~~Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby. [Repealed].~~

~~61-36. FROZEN DESSERTS.~~

~~(Statutory Authority: S.C. Code Ann. Sections 44-1-140 et seq., 44-1-140(11), 1-23-10, and 1-23-110 (1976, as amended))~~

TABLE OF CONTENTS

SECTION I. Definitions
SECTION II. Adulterated or Misbranded Frozen Desserts
SECTION III. Compliance Procedures
SECTION IV. Labeling

~~SECTION V. Inspection of Frozen Dessert Plants~~
~~SECTION VI. The Examination of Frozen Desserts~~
~~SECTION VII. Standards for Frozen Dessert Plants~~
~~SECTION VIII. Frozen Desserts from Points Beyond the Limits of Routine Inspection~~
~~SECTION IX. Plans for Construction and Reconstruction~~
~~SECTION X. Personnel Health~~
~~SECTION XI. Procedure When Infection or High Risk Infection is Suspected~~
~~SECTION XII. Recalls~~
~~SECTION XIII. Enforcement~~
~~SECTION XIV. Penalties~~
~~SECTION XV. Repeal and Date of Effect~~
~~SECTION XVI. Severability Clause~~

SECTION I. DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this Regulation:

~~ADULTERATED FROZEN DESSERTS~~—a frozen dessert is deemed to be adulterated if the product:

- ~~1. Bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;~~
- ~~2. Bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulation, or in excess of such tolerance if one has been established;~~
- ~~3. Consists, in whole or in part, of any substance unfit for human consumption;~~
- ~~4. Has been produced, processed, prepared, packaged, or held under unsanitary conditions;~~
- ~~5. Is packaged in a container which is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or~~
- ~~6. Has any substance added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.~~
- ~~7. Is in violation of Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 342) will be considered as a violation of this Regulation.~~

~~AND/OR~~—“and” shall apply where appropriate, otherwise “or” shall apply.

~~ASEPTICALLY PROCESSED MIX~~—a frozen dessert mix that is hermetically sealed in a container and so thermally processed in conformance with 21 CFR 113 and the provisions of this Regulation so as to render the product free of microorganisms capable of reproducing in the product under normal non-refrigeration conditions of storage and distribution. The product shall be free of viable microorganisms (including spores) of public health significance.

~~ASEPTIC PROCESSING~~—a process whereby the mix has been subjected to sufficient heat processing, and packaged in a hermetically sealed container, to conform to the applicable requirements of 21 CFR 113 and the provisions of Section VII (B), Item 16, of this Regulation and maintain the commercial sterility of the product under normal non-refrigerated conditions.

~~DEPARTMENT—the authorized representative of the South Carolina Department of Health and Environmental Control.~~

~~DRUG—shall mean:~~

- ~~1. articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and~~
- ~~2. articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and~~
- ~~3. articles (other than food) intended to affect the structure of any function of the body of man or other animals; and~~
- ~~4. articles intended for use as a component of any articles specified in clauses 1, 2, or 3, but does not include devices or their components, parts, or accessories.~~

~~FOUNTAIN FREEZER—a freezer which is installed and used for freezing frozen desserts which are held in the freezer under refrigeration until they are served for immediate consumption.~~

~~FROZEN DESSERTS—frozen desserts as used in this regulation shall be defined in S.C. Code Ann. Section 39-37-10 (1976, as amended). They shall also include mixes used for frozen dessert manufacturing and products such as gelato and sorbetto made in semblance of those products defined in Section 39-37-10.~~

~~FROZEN DESSERTS MANUFACTURER—any person, except frozen dairy foods retailer, who manufactures, processes, or freezes any frozen desserts for distribution or sale.~~

~~FROZEN DESSERTS PLANT—any place or premises except frozen dairy foods retailers where frozen desserts are manufactured, processed, or frozen for distribution or sale.~~

~~FROZEN DESSERTS RETAILER—any person who sells, serves, dispenses or processes by fountain freezing, frozen desserts at retail which have been processed in an approved frozen desserts plant.~~

~~HERMETICALLY SEALED CONTAINER—a container that is designed and intended to be secure against the entry of microorganisms and thereby maintain the commercial sterility of its contents after processing.~~

~~MIX—the unfrozen combination of ingredients of frozen desserts except such fruits, nuts, flavors, color, and other ingredients as may be exempted by the Department. Mix shall be pasteurized.~~

~~NOVELTIES—Frozen desserts, either alone or in combination with other foods such as cookies, wafers, cones, coating, confections, etc., which are packaged in single serving units.~~

~~PASTEURIZATION—the process of heating every particle of mix in properly designed and operated equipment to one of the temperatures given in the following table, and held continuously at or above that temperature for at least the corresponding specified time:~~

~~TEMPERATURE / TIME
155 degrees F / 30 Minutes
175 degrees F / 25 Seconds
180 degrees F / 15 Seconds
191 degrees F / 1.0 Second~~

~~194 degrees F / 0.5 Second
201 degrees F / 0.1 Second
204 degrees F / 0.05 Second
212 degrees F / 0.01 Second~~

~~Provided further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Food and Drug Administration (FDA) to be equally efficient and which is approved by the Department.~~

~~PERSON—any individual, plant operator, partnership, corporation, company, firm, trustee, association, or institution.~~

~~OFFICIALLY DESIGNATED LABORATORY—a commercial laboratory authorized to do official work by the Department, or a milk industry laboratory officially designated by the Department for the examination of producer samples of Grade A raw milk for pasteurization and commingled milk tank truck samples of raw milk for antibiotic residues and bacterial limits.~~

~~OFFICIAL LABORATORY—a biological, chemical, or physical laboratory which is under the direct supervision of the Department.~~

~~SANITIZATION—the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the Department.~~

~~STERILIZED—the condition achieved by application of heat, chemical sterilant(s) or other appropriate treatment that renders the piping, equipment and containers free of viable microorganisms.~~

~~ULTRA PASTEURIZED—mix that has been thermally processed at or above 138°C (280°F) for at least two seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.~~

~~SECTION II. ADULTERATED OR MISBRANDED FROZEN DESSERTS~~

~~A. No person shall within the State of South Carolina, or its jurisdiction, produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell any frozen dessert which is adulterated or misbranded. Any frozen dessert which may contain any unwholesome substance, or which if defined in this Regulation does not conform with the definition, shall be deemed adulterated and/or misbranded.~~

~~B. Any adulterated or misbranded frozen dessert may be impounded by the Department and disposed of in accordance with applicable laws or regulations.~~

~~C. Frozen desserts shall be examined by the Department as often as may be necessary to determine freedom from adulteration or misbranding. The Department may, upon written notice to the owner or person in charge, place a hold order on any frozen dessert which it determines or has probable cause to believe, to be unwholesome or otherwise adulterated or misbranded. Under a hold order, frozen desserts shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on frozen desserts by the Department, and neither such frozen desserts nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Department, except on order by a court of competent jurisdiction.~~

~~D. When frozen desserts are found to be adulterated by drugs, pesticides, herbicides, or other poisonous substances, the adulterated products shall be removed from the market, disposed of, and sale stopped until analysis provides the product to be free from adulteration.~~

~~SECTION III. COMPLIANCE PROCEDURES:~~

~~A. PERMIT:~~

~~1. It shall be unlawful for any person who does not possess a permit from the Department to bring into, send into, or receive into South Carolina or its jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage any frozen dessert defined in this Regulation: Provided, that grocery stores, restaurants, soda fountains, and similar establishments where frozen desserts are served or sold at retail, but not processed, other than fountain freezing of approved pasteurized mix, may be exempt from the requirements of this section.~~

~~2. Only a person who complies with the requirements of this Regulation shall be entitled to receive and retain such a permit. Every frozen dessert manufacturer shall have a permit. Permits shall not be transferred with respect to persons and/or locations.~~

~~B. SUSPENSION OF PERMIT:~~

~~1. The Department shall suspend such permit, whenever it has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the requirements of this Regulation; or whenever the permit holder has interfered with the Department in the performance of its duties: Provided, that the Department shall, in all cases except where the frozen desserts involved creates, or appears to create, an imminent hazard to the public health; or in any case of a willful refusal to permit authorized inspection, serve upon the permit holder, manager or other duly authorized representative, a written notice of intent to suspend permit, which notice shall specify with particularity the violation(s) in questions and afford the holder such reasonable opportunity to correct such violation(s) as may be agreed to by the parties, or in the absence of agreement, fixed by the Department before making any order of suspension effective. A suspension shall remain in effect until the violation has been corrected to the satisfaction of the Department.~~

~~2. When the permit suspension is due to violations other than bacterial, coliform, cooling temperature standards or adulteration by drugs, the permit holder, manager or other duly authorized representative, is notified of the intent to suspend the permit in fifteen days unless a written request for a hearing is filed by the permit holder within such fifteen day period with the Department. If the hearing upholds the findings of the Department, the permit shall be suspended until the reasons for the suspension have been corrected.~~

~~3. The Department may without warning, notice, or hearing suspend a permit to operate a frozen dessert plant when it is determined that the operation of the frozen dessert plant constitutes an imminent health hazard, e.g., violations of bacterial, coliform, cooling temperatures, or adulteration by growth inhibitors (drugs) or other deleterious substances. Following immediate permit suspension, all manufacturing operations shall immediately cease. The Department shall promptly notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit was suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Department by the permit holder, manager or other duly authorized representative, within fifteen days. If no written request for a hearing is filed within fifteen days, the suspension is sustained. During the process, the permit shall remain suspended unless the imminent health hazard has been corrected.~~

~~4. Hearings on suspension of permits provided for in this section shall be conducted in accordance, where applicable, with the South Carolina Administrative Procedures Act, S.C. Code Ann. Section 1-23-310 et. seq., 1976, as amended) and applicable regulations.~~

~~5. Any frozen dessert or mix manufacturer whose permit has been suspended may make written application for the reinstatement of his permit.~~

~~6. Within one week of receiving the written application, the Department shall make inspections and/or collect samples for analysis to determine the applicant's establishment is in substantial compliance with this Regulation. If conditions warrant, the permit will be reinstated.~~

~~C. REVOCATION OF PERMIT:~~

~~1. The Department may revoke a permit after an opportunity for a hearing has been provided for repeated critical violations of any of the requirements of this regulation, or for interference with the Department of the performance of duty. Notwithstanding any other provisions of this regulation, the permit shall be revoked if the Department is threatened with bodily harm or physical interference in the performance of inspectional duties.~~

~~2. Prior to revocation, the Department shall notify, in writing, the permit holder, manager or other duly authorized representative, of the specific reasons for which the permit is to be revoked and that the permit shall be revoked at the end of the fifteen days following service of such notice unless a written request for a hearing is filed with the Department by the permit holder, manager or other duly authorized representative, within such fifteen day period.~~

~~3. When a permit has been revoked, the holder of the revoked permit may make written application for a new permit; however, the Department may deny a new permit based upon past history.~~

~~4. The revocation of a permit, provided for in this chapter, shall be conducted in accordance with the South Carolina Administrative Procedures Act.~~

~~5. A notice provided for in this regulation is properly served when it is delivered to the permit holder, manager or other duly authorized representative, or when it is sent by registered or certified mail, return receipt requested and delivery restricted to the addressee, to the last known address of the frozen dessert plant's permit holder.~~

~~6. The hearings provided for in this regulation shall be conducted in accordance with the South Carolina Administrative Procedures Act, S.C. Code Ann. Section 1-23-310 et. seq. (1976, as amended) and applicable regulations.~~

~~SECTION IV. LABELING~~

~~All cans, packages, and other containers enclosing mix and frozen desserts or their ingredients derived from milk or edible food fats, except those filled from labeled bulk containers in retail dispensing, shall be plainly labeled or marked with: (1) the name of the contents; and (2) the name and address of the plant at which the contents were placed in the container. A frozen desserts manufacturing plant may be identified by a code when the Department is given advance notice of the coding. The label shall be in letters of an approved size, kind, and color and shall contain no marks or words which are misleading. All finished product labeling (name of product, ingredients, nutrition facts, net contents, etc.) shall conform to applicable federal and state labeling laws.~~

SECTION V. INSPECTION OF FROZEN DESSERT PLANTS:

A. Each frozen desserts manufacturer whose frozen desserts are intended for consumption within South Carolina or its jurisdiction shall be inspected by the Department prior to the issuance of a permit.

B. Following the issuance of a permit, the Department shall inspect each frozen dessert manufacturer at least once every three months.

C. If a violation of any requirement set forth in Section VI or Section VII is found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three days; this second inspection shall be used to determine compliance with the requirements of Section VI or VII. Any violation of the same requirement of Section VI or VII on such second inspection shall call for permit suspension in accordance with Section III and/or court action.

D. Provided, that when the Department finds that a critical processing element violation involving:

1. Proper pasteurization, whereby every particle of mix or frozen desserts may not have been heated to the proper temperature and held for the required time in properly designed and operating equipment; or

2. A cross connection exists whereby direct contamination of pasteurized mix or frozen dessert is occurring; or

3. Conditions exist whereby direct contamination of pasteurized mix or frozen desserts is occurring, the Department shall take immediate action to prevent further processing of such mix or frozen dessert until such violations of critical processing element(s) have been corrected. Should correction of such critical processing elements not be accomplished immediately, the Department shall take prompt action to suspend the permit as provided for in Section III of this Regulation.

E. Provided, that in the case of a mix plant producing aseptically processed mix, when an inspection of the mix plant and its records reveal that the process used has been less than the required scheduled process, it shall be considered an imminent hazard to the public health and the Department shall take immediate action to suspend the permit of the plant for the sale of aseptically processed mix in conformance with Section III of this Regulation.

F. One copy of the inspection report shall be handed to the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the establishment. Said inspection report shall not be defaced and shall be made available to the Department upon request. An identical copy of the inspection report shall be filed with the records of the Department.

G. Every frozen desserts plant operator shall, upon request of the Department, permit access of officially designated persons to all parts of his establishment or facilities to determine compliance with the provisions of this Regulation. A plant operator shall furnish the Department, upon request, for official use only, a true statement of the actual quantities of frozen desserts purchased and sold, and a list of all sources of such frozen desserts, records of inspections, tests, and pasteurization time and temperature records.

H. It shall be unlawful for any person who, in an official capacity, obtains any information under the provisions of this Regulation which is entitled to protection as a trade secret (including information as to the quantity, quality, source or disposition of frozen desserts, or results of inspections or tests thereof) to use such information to his own advantage or to reveal it to any unauthorized person.

SECTION VI. THE EXAMINATION OF FROZEN DESSERTS

A. SAMPLING CRITERIA:

1. ~~During any consecutive six months, at least four samples of pasteurized mix and a variety of different flavors, types and sizes of containers of frozen desserts and frozen dessert novelties defined in this Regulation, except aseptically processed mix, shall be collected in at least four separate months, except when three months show a month containing two sampling dates separated by at least twenty days, from every frozen desserts plant by the Department.~~

2. ~~Samples of frozen desserts shall be taken while in the possession of the manufacturer and/or distributor at any time prior to delivery to the store or consumer.~~

3. ~~Samples of frozen desserts from stores, cafes, soda fountains, restaurants, and other places where frozen desserts are sold may be examined as often as the Department may require.~~

B. SAMPLING ENFORCEMENT:

1. ~~Whenever two of the last four consecutive bacterial counts (except those for aseptically processed mix), coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for frozen desserts, the Department shall send a certified or hand delivered written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within twenty one days of the sending of such notice, but not before the lapse of three days. Immediate suspension of permit in accordance with Section III, and/or court action shall be instituted whenever the standard is violated by three of the last five bacterial counts (except those for aseptically processed mix), coliform determinations, or cooling temperatures.~~

2. ~~Whenever a phosphatase test is positive, the cause shall be determined. Where the cause is improper pasteurization, it shall be corrected and any mix or frozen desserts involved shall not be offered for sale.~~

3. ~~Whenever a pesticide residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected. An additional sample shall be taken and tested for pesticide residues and no frozen desserts shall be offered for sale until it is shown by a subsequent sample to be free of pesticide residues or below the actionable levels established for such residues.~~

4. ~~Whenever a drug residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected in accordance with the provision of Section II of this Regulation.~~

5. ~~Whenever a container or containers of aseptically processed mix is found to be unsterile due to underprocessing, the Department shall consider this to be an imminent hazard to public health and shall suspend the permit of the mix plant for the sale of aseptically processed mix. No aseptically processed mix or frozen desserts made from the mix, shall be sold until it can be shown that the processes, equipment and procedures used are suitable for consistent production of a sterile product. All products, including frozen desserts, manufactured from the lot found to contain one or more unsterile units shall be recalled and disposed of as directed by the Department.~~

C. SAMPLING METHODS:

~~Samples shall be analyzed at an official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the~~

certification of sample collectors, and examinations shall be evaluated in accordance with the United States Public Health Service/FDA Evaluation of Milk Laboratories. ~~Aseptically processed mix packaged in hermetically sealed containers shall be tested in accordance with the FDA's Bacteriological Analytical Manual. Examinations and tests to detect adulterants, including pesticides, shall be conducted, as the Department requires.~~

~~SECTION VII. FROZEN DESSERT PLANTS~~

~~A. TEMPERATURE, BACTERIOLOGICAL AND CHEMICAL REQUIREMENTS~~

~~1. All frozen desserts shall be produced, processed, and pasteurized, ultra-pasteurized, aseptically processed and frozen to conform with the following temperature, bacteriological, and chemical standards and the sanitation requirements of this section:~~

~~a. Raw Milk and Milk Products for Pasteurization, Ultra Pasteurization, and Aseptic Processing:~~

~~(1) Temperature — Cooled to 10°C (50°F) or less within four (4) hours or less, of the commencement of the first milking, and to 7°C (45°F) or less within two (2) hours after the completion of milking. Provided, that the blend temperature after the first milking and subsequent milkings does not exceed 10°C (50°F).~~

~~(2) Bacterial Limits — Individual producer milk not to exceed 100,000 per mL prior to commingling with other producer milk. Not to exceed 300,000 per mL as commingled milk prior to pasteurization.~~

~~(3) Somatic Cell Count — Individual producer milk not to exceed 750,000 per mL. Goat milk not to exceed 1,000,000 per mL.~~

~~(4) Drugs — No positive results on drug residue detection methods as referenced in Section 6— Laboratory Techniques, FDA-Grade A PMO as amended.~~

~~b. Pasteurized Frozen Desserts and Heat Treated, Bulk Shipped Milk Products:~~

~~(1) Temperature — Cooled to 7°C (45°F) or less and maintained thereat.~~

~~(2) Bacterial limits*— 30,000 per mL.~~

~~(3) Coliform — Not to exceed 10 per mL: provided that, in the case of bulk milk transport tank shipments, where contents are to be repasteurized, shall not exceed 100 per mL.~~

~~(4) Phosphatase** — Less than 500 milliunits/L by the Fluorometer or Clarion ALP or equivalent.~~

~~(5) Drugs — No positive results on drug residue detection methods as referenced in Section 6— Laboratory Techniques, FDA-Grade A PMO as amended.~~

~~c. Aseptically Processed Mix:~~

~~(1) Temperature — None.~~

~~(2) Bacterial limits — No growth by test specified in Section VI.~~

~~(3) Drugs—No positive results on drug residue detection methods as referenced in Section 6—Laboratory Techniques, FDA Grade A PMO as amended.~~

~~*Not applicable to cultured products.~~

~~**Not applicable to bulk shipped heat treated milk products.~~

~~2. No process or manipulation other than pasteurization, ultra pasteurization or aseptic processing, freezing, processing methods integral therewith, and appropriate refrigeration (freezing) shall be applied to mix and frozen desserts for the purpose of removing or deactivating microorganisms: Provided, that in the bulk shipment of cream, skim milk, or lowfat milk, the heating of the raw milk, one time, to temperatures greater than 125°F but less than 161°F for separation purposes is permitted when the resulting bulk shipments of cream, skim milk, and/or lowfat milk are labeled heat treated.~~

B. SANITATION OF FROZEN DESSERT PLANTS

~~1. Floors—Construction: The floors of all rooms in which frozen desserts, or their ingredients are processed, handled or stored, including cold storage rooms, or in which containers, equipment and utensils are washed or stored shall be constructed of concrete or other equally impervious and easily cleaned material and shall be kept in good repair. Floors in all areas in which frozen desserts or their ingredients are processed or in which containers, equipment and utensils are washed shall be properly sloped and equipped with trapped drains.~~

~~2. Walls and Ceilings—Construction: Walls and ceilings of room in which frozen desserts or their ingredients are processed, handled, or stored, or in which containers, utensils, and equipment are washed shall have a smooth, water resistant, washable, light colored surface in good repair.~~

~~3. Doors and Windows: Effective means shall be provided to prevent the access of insects and rodents. All openings to the outside shall have solid doors or glazed windows which shall be closed during dusty weather. Outside openings shall be protected against the entrance of insects by tight fitting, self-closing doors, closed windows, screening, effective air curtains or other means.~~

~~4. Lighting and Ventilation:~~

~~a. All rooms in which frozen desserts or their ingredients are handled, processed, or stored, and/or in which containers, equipment, and utensils are washed shall be well lighted and ventilated. At least twenty foot candles of light are needed in working areas. Dry storage and cold storage rooms need at least five foot candles of light.~~

~~b. Pressurized ventilating systems shall have a filtered air intake.~~

~~5. Separate Rooms:~~

~~a. There shall be separate rooms for:~~

~~(1) The pasteurizing, processing, cooling, freezing and packaging of mix and frozen desserts.~~

~~(2) Cleaning and sanitizing facilities for tank trucks in plants receiving mix or milk products in such tanks.~~

~~(3) Receiving cans of mix in plants receiving such cans.~~

~~b. Rooms in which mix or frozen desserts are handled, processed, or stored, or in which containers, utensils, and equipment are washed or stored shall not open directly into any stable or any room used for domestic purposes. All rooms shall be of sufficient size for their intended purposes.~~

~~e. Designated areas or rooms shall be provided for the receiving, handling and storage of returned packaged mix and frozen desserts.~~

~~6. Toilet-Sewage Disposal Facilities:~~

~~Every frozen desserts plant shall be provided with toilet facilities conforming with state and local plumbing laws, regulations and codes. Toilet rooms shall not open directly into any room in which frozen desserts, their ingredients, equipment, or containers are processed, handled or stored. Toilet rooms shall be completely enclosed and shall have tight fitting, self-closing doors. Dressing rooms, toilet rooms and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted. Sewage and other liquid wastes shall be disposed of in wastewater system approved by the Department. A sign directing employees to wash their hands before returning to work shall be posted in all toilet rooms used by employees.~~

~~7. Water Supply:~~

~~a. Water for frozen dessert plant purposes shall be from a supply properly located, protected and operated, and shall be easily accessible, adequate and of a safe, sanitary quality.~~

~~b. Samples for bacteriological testing of individual water supplies shall be taken by the Department upon the initial approval of the physical structure, each six months thereafter, and when any repair or alteration of the water supply system has been made. Examinations shall be conducted in an official laboratory, and records maintained.~~

~~8. Hand-washing Facilities: Convenient hand-washing facilities shall be provided, including hot and cold and/or warm running water, soap, and individual sanitary towels or approved hand-drying devices. Handwashing facilities shall be kept in a clean condition and in good repair.~~

~~9. Frozen Dessert Plant Cleanliness: All rooms in which frozen desserts are handled, processed, frozen or stored, shall be kept clean, neat and free of evidence of insects and rodents. Only equipment directly related to processing operations or to handling of containers, utensils and equipment shall be permitted in the pasteurizing, processing, cooling, freezing, packaging and bulk milk product storage rooms.~~

~~10. Sanitary Piping:~~

~~a. All sanitary piping, fittings and connections which are exposed to frozen desserts, or from which liquids may drip, drain or be drawn into frozen desserts, shall consist of smooth, impervious, corrosion resistant, nontoxic, easily cleanable material. All piping shall be in good repair. Pasteurized frozen desserts shall be conducted from one piece of equipment to another only through sanitary piping.~~

~~b. All sanitary piping, connections and fittings shall consist of:~~

~~(1) Stainless steel of the AISI (American Iron and Steel Institute) 300-series; or~~

~~(2) Equally corrosion resistant metal which is nontoxic and nonabsorbent; or~~

~~(3) Heat resistant glass; or~~

~~(4) Plastic, or rubber and rubber-like materials which are relatively inert, resistant to scratching, scoring, decomposition, crazing, chipping and distortion under normal use conditions; which are nontoxic, fat resistant, relatively nonabsorbent, relatively insoluble, do not release component chemicals or impart flavor or odor to the product; and which maintain their original properties under repeated use conditions, may be used for gaskets, sealing applications and for short flexible take down jumpers or connections where flexibility is required for essential or functional reasons.~~

~~11. Construction and Repair of Containers and Equipment:~~

~~a. All multi-use containers and equipment with which frozen desserts or their ingredients come into contact shall be smooth, impervious, corrosion resistant, and of non-toxic material; shall be constructed for ease of cleaning; and shall be kept in good repair. All single-service containers, closures, gaskets, and other articles with which frozen desserts come in contact shall be nontoxic and shall have been manufactured, packaged, transported and handled in a sanitary manner.~~

~~b. All frozen dessert contact surfaces of multi-use containers and equipment shall consist of:~~

~~(1) Stainless steel of the AISI (American Iron and Steel Institute) 300 series; or~~

~~(2) Equally corrosion-resistant metal which is nontoxic and nonabsorbent; or~~

~~(3) Heat resistant glass; or~~

~~(4) Plastic or rubber and rubber-like materials which are relatively inert, resistant to scratching, scoring, decomposition, crazing, chipping and distortion under normal use conditions; which are nontoxic, fat resistant, relatively nonabsorbent, relatively insoluble, and do not release component chemicals or impart flavor or odor to the product; and which maintain their original properties under repeated use conditions.~~

~~NOTE: 3-A Sanitary Standards for dairy equipment are promulgated jointly by the Sanitary Standards Subcommittee of the Dairy Industry Committee, the Committee on Sanitary Procedure of the International Association for Food Protection, and the Milk Safety Branch, Center for Food Safety and Applied Nutrition, United States Public Health Service/Food and Drug Administration, Department of Health and Human Services.~~

~~12. Cleaning and Sanitizing of Containers and Equipment:~~

~~a. The product contact surfaces of all multi-use containers, utensils and equipment used in the transportation, processing, handling, freezing and storage of frozen desserts shall be effectively cleaned after each use, at least daily, and shall be sanitized before each use. Provided, that piping, equipment and containers used to process, conduct or package aseptically processed mix beyond the final heat treatment process shall be sterilized before any aseptically processed mix is packaged and shall be re-sterilized whenever any unsterile product has contaminated it.~~

~~b. Storage tanks shall be cleaned when emptied and shall be emptied at least every seventy-two hours, except that permission may be granted by the Department for storage of pasteurized mix longer than seventy-two hours, provided necessary plant quality controls are in place. Storage tanks which are used to store raw milk, mix or heat treated milk products longer than twenty-four hours shall be equipped with a seven-day temperature recording device.~~

~~e. A temperature recording device, complying with the specifications in Appendix H, FDA Grade A PMO as amended, or a recording device which has been reviewed by FDA and found to provide sufficient information to adequately evaluate the cleaning and sanitizing regimen and which is approved by the Department shall be installed in the return solution or other appropriate areas to record the temperature and time which the line or equipment is exposed to cleaning and sanitizing solutions.~~

~~d. Recording charts shall be identified, dated and retained for three months. The Department shall review the recording charts during each inspection.~~

~~13. Storage of Cleaned Containers and Equipment: After cleaning, all multi-use frozen dessert containers, utensils and equipment shall be transported and stored to assure complete drainage and shall be protected from contamination before use.~~

~~14. Storage and Handling of Single Service Containers, Utensils and Materials: Covers, caps, parchment papers, wrappers, can liners, and single service sticks, spoons and containers for frozen desserts or their ingredients shall be purchased and stored only in sanitary containers; wrappings or cartons shall be kept therein in a clean, dry place until used, and shall be handled in a sanitary manner.~~

~~15. Protection from Contamination~~

~~a. Frozen dessert plant operations, equipment and facilities shall be located and conducted to prevent any contamination of frozen dessert products, ingredients, equipment, containers and utensils. All frozen desserts or ingredients which have been spilled, overflowed or leaked shall be discarded. The processing or handling of products other than mix or frozen desserts in the plant shall be performed to preclude the contamination of such frozen desserts. The storage, handling and use of poisonous or toxic materials shall be performed to preclude the contamination of frozen desserts or ingredients of such frozen desserts or the product contact surfaces of all equipment, containers or utensils.~~

~~b. Frozen desserts in broken and open containers may after delivery be returned to the plant for inspection but shall not be used for making frozen desserts.~~

~~e. Whenever air under pressure is used for the agitation or movement of frozen desserts or other ingredients, or is directed at frozen dessert contact surfaces or other ingredients, it is free of oil, dust, rust, excessive moisture, extraneous materials and odor, and shall otherwise comply with the applicable standards of Appendix H, FDA Grade A PMO as amended. The use of steam containing toxic substances is expressly prohibited. Whenever steam is used in contact with frozen desserts, it shall be of culinary quality and shall comply with the applicable standards of Appendix H, FDA Grade A PMO as amended.~~

~~16. Pasteurization Aseptic Processing:~~

~~a. All mix shall be pasteurized or aseptically processed as described in Section I of this Regulation.~~

~~b. To insure that pasteurization temperature and time will be applied to every particle of mix, the system design, public health controls and testing shall comply with Section 7. Item 16p of the FDA Grade A PMO as amended.~~

~~17. Cooling:~~

~~a. All milk and fluid milk products received at frozen dessert plants for use in frozen desserts shall be cooled immediately in approved equipment to 45°F or less and maintained at that temperature until~~

~~pasteurized. All pasteurized mix shall be cooled immediately in approved equipment to 45°F or less and maintained at that temperature until frozen.~~

~~b. All mix which is not frozen at the plant at which it was pasteurized shall be transported to the place of manufacturing or freezing in a sanitary manner and maintained at a temperature of 45°F or less until processed. Every room or tank in which milk products or mix are stored shall be equipped with an accurate thermometer, which shall comply with the specifications of Appendix H, FDA Grade A PMO as amended.~~

~~c. Recirculated cooling agents (water or glycol) which are used in coolers and exchangers, including those systems in which a freezing point depressant is used, is from a safe source and protected from contamination. Such cooling agents shall be tested semiannually and shall comply with the bacteriological standards of Appendix G, FDA Grade A PMO as amended. Samples shall be taken by the Department and examination shall be conducted in an official laboratory. Recirculated water systems which become contaminated through repair work or otherwise shall be properly treated and tested before being returned to use. Freezing point depressants, and other chemical additives, when used in recirculating systems, shall be nontoxic under conditions of use.~~

~~18. Packaging:~~

~~a. Packaging, cutting, molding, dipping, and other preparation of frozen desserts or their ingredients shall be done in a sanitary manner using approved equipment.~~

~~b. Filling equipment for frozen desserts shall have drip defectors on the filler valve to prevent condensate from entering the product or container. Shielding shall be provided over conveyors for cartons, lids, caps and filled containers until they are closed to prevent water condensate or other contamination from entering the product.~~

~~e. The product contact surface of the container, including the pouring lip for mix containers, shall be covered by the closure/lid.~~

~~d. Hand capping/packaging is not an acceptable practice. Hand capping/packaging may be approved only if suitable mechanical equipment for the capping/packaging of specific containers is not available or is not practical for use. If hand capping is approved, a Department approved procedure will be established which will eliminate all possibility of contamination.~~

~~19. Ingredients~~

~~a. All raw milk and milk products used in the manufacture of frozen desserts shall be from a Grade A domestic source as defined in the FDA Grade A Pasteurized Milk Ordinance as amended or from other supplies acceptable to the Department. All mix and frozen dessert ingredients shall be clean, have a fresh wholesome flavor and odor and a normal appearance, be of satisfactory quality and shall be processed in an approved, sanitary manner.~~

~~b. The only ingredients which may be added after pasteurization are those flavoring and coloring ingredients which are:~~

~~(1) Subjected to prior heat treatment sufficient to destroy pathogenic microorganisms.~~

~~(2) Of 0.85% water activity or less,~~

~~(3) Of pH less than 4.7,~~

~~(4) Roasted nuts (added at the freezer),~~

~~(5) Contain high alcohol content,~~

~~(6) Bacterial cultures,~~

~~(7) Fruits and vegetables added at the freezer, or~~

~~(8) Subjected to any other process which will assure that the ingredient is free of pathogenic organisms.~~

~~20. Personnel—Cleanliness: Hands shall be thoroughly washed before commencing plant functions and as often as may be required to remove soil and contamination. Employees shall not resume work after visiting the toilet room without thoroughly washing their hands. All persons while engaged in the processing, pasteurization, freezing, handling, storage or transportation of mix or frozen desserts, containers, equipment and utensils shall wear clean outer garments. All persons while engaged in the processing of mix and frozen desserts shall wear adequate hair covering and shall not use tobacco.~~

~~21. Vehicles: All vehicles used for the transportation of frozen desserts or their ingredients shall be so constructed and operated as to protect their contents from the sun and from contamination. Such vehicles shall be kept clean and no substance capable of contaminating mix or frozen desserts or their ingredients shall be transported therewith in such manner as to permit contamination. The name of the distributor shall be prominently displayed on the vehicles.~~

~~22. Surroundings:~~

~~a. Frozen dessert plants shall be kept neat, clean and free from conditions which might attract or harbor flies, other insects and rodents, or otherwise constitute a nuisance.~~

~~b. Only insecticides and rodenticides approved for use by the Department and/or registered with the U.S. Environmental Protection Agency shall be used for insect and rodent control.~~

~~SECTION VIII. FROZEN DESSERTS FROM POINTS BEYOND THE LIMITS OF ROUTINE INSPECTION~~

~~Frozen desserts from points beyond the limits of routine inspection by the Department may be sold in South Carolina if they are manufactured under provisions substantially equivalent to the requirements of this Regulation; provided, that the Department shall be satisfied that the agency having jurisdiction over the manufacture of these products is properly enforcing such provisions.~~

~~SECTION IX. PLANS FOR CONSTRUCTION AND RECONSTRUCTION~~

~~Properly prepared plans for all frozen dessert plants regulated under this Regulation which are hereafter constructed, reconstructed or extensively altered shall be submitted to the Department for written approval before work is begun.~~

~~SECTION X. PERSONNEL HEALTH~~

~~No person affected with any disease capable of being transmitted to others through the contamination of food shall work at any frozen desserts plant in any capacity which brings them into direct contact with~~

~~finished products, such as pasteurized or aseptically processed mix or frozen desserts, or which brings them into direct contact with associated pasteurized or aseptically processed mix and frozen dessert product contact surfaces.~~

~~SECTION XI. PROCEDURE WHEN INFECTION OR HIGH RISK INFECTION IS SUSPECTED:~~

~~When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of frozen desserts, or their ingredients, the Department is authorized to require any or all of the following measures:~~

~~A. The immediate exclusion of that person from handling frozen desserts, or their ingredients;~~

~~B. The immediate exclusion of the frozen desserts concerned from distribution and use;~~

~~C. Adequate medical and bacteriological examination of the person, of his associates, and of his and their body discharges.~~

~~SECTION XII. RECALLS~~

~~Each frozen desserts manufacturer should develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any said procedure as necessary with respect to any product for which the operator or the Department knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the Department determines, based upon representative samples, risk analysis, information provided by the frozen desserts manufacturer, and other information available to the Department, that the circumstances present an imminent hazard to the public health and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the Department may order the frozen desserts manufacturer to initiate a level of product recall or, if appropriate, issue a form of notification to customers. The frozen desserts manufacturer shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.~~

~~SECTION XIII. PENALTIES:~~

~~Violations of this regulation shall be punishable in accordance with S.C. Code Ann. Section 44-1-150 (1976 as amended). Each day of continued violation shall be a separate offense.~~

~~SECTION XIV. REPEAL AND DATE OF EFFECT:~~

~~All previous amendments of this regulation are hereby repealed; this regulation shall be in full force and effect immediately upon adoption and its publication, as provided by law.~~

~~SECTION XV. SEVERABILITY CLAUSE:~~

~~Should any section, paragraph, sentence, clause or phrase of this Regulation be declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.~~

61-36. Manufactured Grade Dairy Products.

Statutory Authority: S.C. Code Sections 44-1-140, 44-1-150, and 39-37-120

TABLE OF CONTENTS

SECTION I. DEFINITIONS

SECTION II. ADULTERATED OR MISBRANDED MANUFACTURED GRADE DAIRY PRODUCTS

SECTION III. COMPLIANCE PROCEDURES

SECTION IV. LABELING

SECTION V. INSPECTION OF MANUFACTURED GRADE DAIRY PRODUCTS PLANTS AND MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS

SECTION VI. THE EXAMINATION OF MANUFACTURED GRADE DAIRY PRODUCTS

SECTION VII. STANDARDS FOR MANUFACTURED GRADE DAIRY PRODUCTS PLANTS AND MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS

SECTION VIII. MANUFACTURED GRADE DAIRY PRODUCTS FROM OUT OF STATE OR OUTSIDE THE UNITED STATES

SECTION IX. PLANS FOR CONSTRUCTION AND RECONSTRUCTION

SECTION X. EQUIPMENT AND FACILITIES IN OPERATION PRIOR TO JULY 1, 2020

SECTION XI. PROCEDURE WHEN INFECTION OR HIGH RISK INFECTION IS SUSPECTED

SECTION XII. RECALLS

SECTION XIII. ENFORCEMENT AND PENALTIES

SECTION XIV. SEVERABILITY CLAUSE

SECTION I. DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this regulation:

A. ADULTERATED - a MANUFACTURED GRADE DAIRY PRODUCT is deemed to be ADULTERATED if the product:

1. Bears or contains any poisonous or deleterious substance in a quantity that may render it injurious to health;

2. Bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by state or federal regulation, or in excess of such tolerance if one has been established;

3. Consists, in whole or in part, of any substance unfit for human consumption;

4. Has been produced, processed, prepared, packaged, or held under unsanitary conditions;

5. Is packaged in a container which is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

6. Has any substance added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;

7. Is in violation of Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 342); or

8. Contains any animal DRUG residues.

B. ALCOHOL INFUSED FROZEN DESSERT- any FROZEN DESSERT that contains five percent (5%) or more alcohol by volume.

C. APPROVED - acceptable to the DEPARTMENT based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

D. ASEPTICALLY PROCESSED MIX - a MANUFACTURED GRADE DAIRY PRODUCT that is hermetically sealed in a container and so thermally processed in conformance with 21 CFR Part 113 and the provisions of this regulation so as to render the product free of MICROORGANISMS capable of reproducing in the product under normal non-refrigeration conditions of storage and distribution. The product shall be free of viable MICROORGANISMS (including spores) of public health significance.

E. ASEPTIC PROCESSING - a process whereby the MANUFACTURED GRADE DAIRY PRODUCT has been subjected to sufficient heat processing, and packaged in a HERMETICALLY SEALED CONTAINER, to conform to the applicable requirements of 21 CFR Part 113 and the provisions of Section VII A.1.c. of this regulation and maintain the commercial sterility of the product under normal non-refrigerated conditions.

F. BUSINESS DAY - every official work day of the week excluding weekends and state holidays.

G. BUTTER - the FOOD product usually known as BUTTER that is made exclusively from MILK or cream, or both, with or without salt, and with or without additional coloring matter, and which contains not less than eighty percent (80%) by weight of MILK fat. BUTTER may contain: (a) MILK solids; (b) APPROVED bacterial culture; (c) salt; (d) air or inert gas; and (e) APPROVED FOOD color. BUTTER also includes the following MANUFACTURED GRADE DAIRY PRODUCTS:

1. BUTTER WITH (NAMING THE FRUIT, VEGETABLE, OR RELISH) - BUTTER to which any fruit, vegetable, or relish, or any combination thereof, has been added. It may contain less than eighty percent (80%) MILK fat if the percentage of MILK fat is reduced by the amount of the product added, but the resulting MILK fat content must be at least seventy-five (75%).

2. BUTTER WITH (NAMING THE SEASONING OR FLAVOR) - BUTTER to which a seasoning or a flavor other than that of BUTTER, or both, has been added. It must contain at least eighty percent (80%) MILK fat.

3. CALORIE-REDUCED BUTTER - the FOOD product usually known as calorie-reduced BUTTER that is prepared from MILK or MILK products or a combination thereof, and which contains at least thirty-nine (39%) MILK fat and not more than fifty percent (50%) of the calories that would normally be present in BUTTER. CALORIE-REDUCED BUTTER may contain: (a) MILK solids; (b) APPROVED bacterial culture; (c) salt; (d) air or inert gas; (e) APPROVED FOOD color; (f) APPROVED emulsifying and stabilizing agents; (g) APPROVED preservatives; and (h) not more than one percent (1%) added edible casein, edible caseinates, or any combination thereof.

4. LIGHT BUTTER OR LITE BUTTER - FOOD product usually known as LIGHT BUTTER or LITE BUTTER, which is prepared from MILK or MILK products or a combination thereof, and which contains at least thirty-nine (39%) MILK fat and not more than sixty percent (60%) MILK fat. LIGHT BUTTER or LITE BUTTER may contain: (a) MILK solids; (b) APPROVED bacterial culture; (c) salt; (d) air or inert gas; and (e) APPROVED FOOD color.

5. WHEY BUTTER - FOOD product usually known as WHEY BUTTER that is prepared from MILK or MILK products or a combination thereof, and which contains at least eighty percent (80%) MILK fat that is recovered from whey, by weight. WHEY BUTTER may contain: (a) MILK solids; (b) APPROVED bacterial culture; (c) salt; (d) air or inert gas; and (e) APPROVED FOOD color.

H. CODE OF FEDERAL REGULATIONS (CFR) - a codification of the general and permanent rules and regulations (administrative LAW) published in the Federal Register by the executive departments and agencies of the federal government of the United States. Citations to the CFR in this regulation refer sequentially to the Title, Part, and Section numbers (e.g., 21 CFR 117.10 refers to Title 21, Part 117, Section 117.10).

I. CHEESE - the fresh or matured product obtained by draining after coagulation of MILK, cream, skimmed or partly skimmed MILK, or a combination of some or all of these products, including any CHEESE that conforms to the requirements of 21 CFR 133, as amended.

J. DEPARTMENT - the South Carolina Department of Health and Environmental Control and its authorized representatives.

K. DRUG - shall mean:

1. articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and

2. articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and

3. articles (other than FOOD) intended to affect the structure of any function of the body of man or other animals; and

4. articles intended for use as a component of any articles specified in clauses 1, 2, or 3, but does not include devices or their components, parts, or accessories.

L. EMPLOYEE - permit holder, PERSON in charge, PERSON having supervisory or managerial duties, PERSON on the payroll, family member, volunteer, PERSON performing work under a contractual agreement, or any other PERSON working in a MANUFACTURED GRADE DAIRY PRODUCTS plant or distribution station.

M. EXCLUSION - prevention of a PERSON from working as an EMPLOYEE in a MANUFACTURED GRADE DAIRY PRODUCTS plant or distribution station or entering a MANUFACTURED GRADE DAIRY PRODUCTS plant or distribution station as an EMPLOYEE.

N. FDA - United States Food and Drug Administration.

O. FD&C - United States Food, Drug, and Cosmetic Act, the federal LAWS giving authority to FDA to oversee the safety of FOOD, DRUGS, medical devices and cosmetics, as set forth in 21 U.S.C. Section 301 et seq.

P. FOOD - means FOOD as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (FD&C) and includes raw materials and ingredients.

Q. FROZEN DESSERT - as used in this regulation is defined in S.C. Code Ann. Section 39-37-10. They shall also include MIXES used for FROZEN DESSERT manufacturing and products such as gelato and sorbetto made in semblance of those products defined in Section 39-37-10.

R. HERMETICALLY SEALED CONTAINER - a container that is designed and intended to be secure against the entry of MICROORGANISMS and thereby maintain the commercial sterility of its contents after processing.

S. IMITATION MILK AND IMITATION MILK PRODUCTS, SYNTHETIC MILK AND SYNTHETIC MILK PRODUCTS, MILK DERIVATIVES, AND ANY OTHER PRODUCTS MADE IN SEMBLANCE OF MILK OR MILK PRODUCTS - Products made in semblance of MILK and MILK products are products that are made to resemble in form and are intended to be used in substitution for MILK and/or MILK products and that are determined not to be nutritionally inferior to MILK and/or MILK products.

T. IMMINENT HEALTH HAZARD - a significant threat or danger to health that is considered to exist when there is sufficient evidence to show that a product, practice, circumstance, or event creates a situation requiring immediate correction or cessation of operation to prevent illness or injury based on the number of potential illnesses or injuries, and the nature, severity, and duration of the anticipated illness or injury.

U. LAW - applicable local, state, and federal statutes, regulations, and ordinances.

V. MANUFACTURED GRADE DAIRY PRODUCT(S) - refers to all types of dairy based manufactured FOOD products to include CHEESES, BUTTERS, FROZEN DESSERTS (including MIX), and IMITATION MILK and IMITATION MILK PRODUCTS, SYNTHETIC MILK AND SYNTHETIC MILK PRODUCTS, MILK DERIVATIVES, and ANY OTHER PRODUCTS MADE IN SEMBLANCE OF MILK OR MILK PRODUCTS.

W. MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATION - any place or PREMISES, except MANUFACTURED GRADE DAIRY PRODUCTS RETAILERS, where MANUFACTURED GRADE DAIRY PRODUCTS are received, stored, and dispensed to retailers (may also be referred to as "Distribution Station").

X. MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR - any PERSON, except a MANUFACTURED GRADE DAIRY PRODUCTS RETAILER, who receives, stores, and dispenses MANUFACTURED GRADE DAIRY PRODUCTS to retailers (may also be referred to as "Distributor").

Y. MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER - any PERSON, except a MANUFACTURED GRADE DAIRY PRODUCTS RETAILER, who manufactures, processes, or freezes MANUFACTURED GRADE DAIRY PRODUCTS for distribution or sale.

Z. MANUFACTURED GRADE DAIRY PRODUCTS PLANT - any place or PREMISES, except MANUFACTURED GRADE DAIRY PRODUCTS RETAILERS, where MANUFACTURED GRADE DAIRY PRODUCTS are manufactured, processed, or frozen for distribution or sale.

AA. MANUFACTURED GRADE DAIRY PRODUCTS RETAILER - any PERSON who sells, serves, or dispenses MANUFACTURED GRADE DAIRY PRODUCTS at retail which have been processed in an APPROVED MANUFACTURED GRADE DAIRY PRODUCTS PLANT.

BB. MICROORGANISMS - means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are PATHOGENS. The term "undesirable MICROORGANISMS" includes those MICROORGANISMS that are PATHOGENS, that subject FOOD to decomposition, that indicate that FOOD is contaminated with filth, or that otherwise may cause FOOD to be ADULTERATED.

CC. MILK (HOOVED MAMMALS' MILK) - Hooved mammals' MILK is the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy hooved mammals. Hooved mammals for the purpose of this regulation include, but are not limited to, the members of the Order Cetartiodactyla, such as: Family Bovidae (cattle, water buffalo, sheep, goats, yaks, etc.), Family Camelidae (llamas, alpacas, camels, etc.), Family Cervidae (deer, reindeer, moose, etc.), and Family Equidae (horses, donkeys, etc.).

DD. MIX - the unfrozen combination of ingredients of FROZEN DESSERTS except such fruits, nuts, flavors, color, and other ingredients as may be exempted by the DEPARTMENT. MIX shall be PASTEURIZED.

EE. NUISANCE - for purposes of this regulation, a public health NUISANCE, meaning whatever is dangerous to human life or detrimental to health; or whatever structure or PREMISES is not sufficiently ventilated, sewerred, drained, cleaned, or lighted with respect to its intended occupancy.

FF. OFFICIALLY DESIGNATED LABORATORY - a commercial laboratory authorized to do official work by the DEPARTMENT, or a MILK industry laboratory officially designated by the DEPARTMENT for the examination of producer samples of Grade "A" RAW MILK for PASTEURIZATION and commingled MILK tank truck samples of RAW MILK for antibiotic residues and bacterial limits.

GG. OFFICIAL LABORATORY - a biological, chemical, or physical laboratory that is under the direct supervision of the DEPARTMENT.

HH. PASTEURIZATION - the process of heating every particle of MANUFACTURED GRADE DAIRY PRODUCT in properly designed and operated equipment to one of the temperatures given in the following table, and holding the product continuously at or above that temperature for at least the corresponding specified time:

<u>Batch (Vat)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
<u>145°F (63°C)*</u>	<u>30 minutes</u>
<u>Continuous Flow (HTST and HHST) PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
<u>161°F (72°C)*</u>	<u>15 seconds</u>
<u>191°F (89°C)</u>	<u>1.0 second</u>
<u>194°F (90°C)</u>	<u>0.5 second</u>
<u>201°F (94°C)</u>	<u>0.1 second</u>
<u>204°F (96°C)</u>	<u>0.05 second</u>

212°F (100°C)	0.01 second
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*If the fat content of the dairy product is ten percent (10%) or greater, or a total solids of eighteen percent (18%) or greater, or if it contains added sweeteners, the specified temperature shall be increased by 5°F (3°C).

Provided, that FROZEN DESSERTS shall be heated to at least the following temperature and time specifications:

<u>Batch (Vat)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
155°F (69°C)	30 minutes
<u>Continuous Flow (HTST)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
175°F (80°C)	25 seconds
180°F (83°C)	15 seconds

Provided, that MILK for CHEESE making shall be heated to at least the following temperature and time specification:

<u>Batch (Vat)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
145°F (63°C)	30 minutes
<u>Continuous Flow (HTST)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
161°F (72°C)	15 seconds

Provided, that cream for BUTTER making shall be heated to at least the following temperature and time specifications:

<u>Batch (Vat)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
165°F (74°C)	30 minutes
<u>Continuous Flow (HTST)</u>	
<u>PASTEURIZATION</u>	
<u>Temperature</u>	<u>Time</u>
185°F (85°C)	15 seconds

Provided further that nothing in this definition shall be construed as barring any other process found equivalent to PASTEURIZATION for dairy products, which has been recognized by the FDA as provided in Section 403(h)(3) of the FD&C (21 U.S.C. Section 343(h)(3)), as amended, and which is APPROVED by the DEPARTMENT.

II. PATHOGEN - a microorganism of public health significance.

JJ. PERMIT - the document issued by the DEPARTMENT that authorizes a PERSON or entity to operate a MANUFACTURED GRADE DAIRY PRODUCTS PLANT or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATION.

KK. PERMIT HOLDER - the entity, such as the owner, the owner's agent, or other PERSON, that possesses a valid PERMIT to operate a MANUFACTURED GRADE DAIRY PRODUCTS PLANT or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATION and is legally responsible for its operation.

LL. PERSON - any individual, plant operator, partnership, corporation, company, firm, trustee, association, or institution.

MM. PEST - any objectionable animals or insects including but not limited to birds, rodents, flies, and larvae.

NN. PASTEURIZED MILK ORDINANCE (PMO) - a set of minimum standards and requirements that are established by the FDA for regulating the production, processing, and packaging of Grade "A" MILK.

OO. PREMISES -

1. The physical facility, its contents, its land, and any adjacent or bordering contiguous land or property under the control of the PERMIT HOLDER; or

2. The physical facility, its contents, and land or property not described in (a) of this definition if the facilities and contents are under the control of the PERMIT HOLDER and may impact the MANUFACTURED GRADE DAIRY PRODUCTS PLANT or distribution station personnel, facilities, or operations, and the MANUFACTURED GRADE DAIRY PRODUCTS PLANT or distribution station is only one component of a larger operation such as a healthcare facility, hotel, motel, school, recreational camp, or prison.

PP. RAW MILK - MILK that has not been PASTEURIZED.

QQ. RESTRICTION - limitation of the activities of an EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through MANUFACTURED GRADE DAIRY PRODUCTS or ingredients and the EMPLOYEE does not work with exposed MANUFACTURED GRADE DAIRY PRODUCTS or ingredients, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

RR. RETAIL FOOD ESTABLISHMENT - an establishment that sells FOOD products directly to consumers as its primary function. RETAIL FOOD ESTABLISHMENTS include, but are not limited to, grocery stores, convenience stores, roadside stands, farmers markets, and community supported agriculture (CSA) operations. Any business making FOOD (including a farm business) with at least 50.1 percent in direct to individual consumer FOOD sales satisfies the definition of a RETAIL FOOD ESTABLISHMENT and is exempt from the Bioterrorism Act registration regulations under the 2002 Bioterrorism Act (21 CODE OF FEDERAL REGULATIONS [C.F.R.] 1.225) as a RETAIL FOOD ESTABLISHMENT. The term "consumers" does not include businesses. A RETAIL FOOD ESTABLISHMENT also includes certain farm-operated businesses selling FOOD directly to consumers as their primary function.

SS. RISK - the likelihood that an adverse health effect will occur within a population as a result of a hazard in a FOOD.

TT. SANITIZE - to adequately treat cleaned surfaces by a DEPARTMENT-accepted process that is effective in destroying vegetative cells of PATHOGENS, and in substantially reducing numbers of other undesirable MICROORGANISMS, but without adversely affecting the product or its safety for the consumer.

UU. ULTRA-PASTEURIZED - MANUFACTURED GRADE DAIRY PRODUCT that has been thermally processed at or above 280°F (138°C) for at least two (2) seconds, either before or after packaging, so as to produce a product that has an extended shelf life under refrigerated conditions.

VV. UNEXPOSED PACKAGED FOOD - packaged FOOD that is not exposed to the environment.

Additional definitions related to this regulation are found in 21 CFR 117.3, as amended.

SECTION II. ADULTERATED OR MISBRANDED MANUFACTURED GRADE DAIRY PRODUCTS

A. No PERSON within South Carolina, or its jurisdiction, shall produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any MANUFACTURED GRADE DAIRY PRODUCT that is ADULTERATED or misbranded. Any MANUFACTURED GRADE DAIRY PRODUCT that may contain any unwholesome substance, or that does not conform with an applicable standard of identity or other requirement under Section I for that particular MANUFACTURED GRADE DAIRY PRODUCT, shall be deemed ADULTERATED and/or misbranded.

B. The DEPARTMENT issues PERMITS for the manufacturing of ALCOHOL INFUSED FROZEN DESSERTS. The DEPARTMENT does not regulate the distribution or sale of ALCOHOL INFUSED FROZEN DESSERTS. Compliance with DEPARTMENT requirements under this regulation does not exempt PERSONS engaged in the production, distribution, or sale of ALCOHOL INFUSED FROZEN DESSERTS from any other applicable LAWS governing the sale or distribution of alcoholic products.

C. The DEPARTMENT may place a hold order on a MANUFACTURED GRADE DAIRY PRODUCT that it determines or has reason to believe:

1. Originated from an unAPPROVED source;
2. May be unsafe, unwholesome, ADULTERATED, misbranded, or not honestly presented;
3. Is not labeled according to LAW; or
4. Is otherwise not in compliance with this regulation.

D. The DEPARTMENT may suspend a PERSON's PERMIT for violating a hold order.

E. The DEPARTMENT may impound, condemn, forbid the sale of, or cause to be removed or destroyed, any FOOD that is determined to be in violation of this regulation, unwholesome, contaminated, ADULTERATED, misbranded, or from an unAPPROVED source.

F. The DEPARTMENT may issue a hold order to a PERMIT HOLDER or to a PERSON who owns or controls the FOOD, as specified above, without prior warning, notice of a hearing, or a hearing on the hold order.

G. The DEPARTMENT may examine MANUFACTURED GRADE DAIRY PRODUCTS as often as necessary to determine freedom from ADULTERATION or misbranding. Under a hold order, MANUFACTURED GRADE DAIRY PRODUCTS shall be suitably stored. It shall be unlawful for any PERSON to remove or alter a hold order, notice, or tag placed on MANUFACTURED GRADE DAIRY PRODUCTS by the DEPARTMENT, and neither such MANUFACTURED GRADE DAIRY PRODUCTS nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the DEPARTMENT, except on order by a court of competent jurisdiction.

H. Whenever MANUFACTURED GRADE DAIRY PRODUCTS are ADULTERATED by DRUGS, pesticides, herbicides, or other poisonous substances, the PERSON or entity in possession of the product shall remove the product from the market, dispose of the product, and stop sale of the product until analysis provides the product to be free from ADULTERATION.

SECTION III. COMPLIANCE PROCEDURES

A. PERMIT.

1. It shall be unlawful for any PERSON to manufacture or distribute any MANUFACTURED GRADE DAIRY PRODUCT without a valid PERMIT issued by the DEPARTMENT for the specific MANUFACTURED GRADE DAIRY PRODUCTS PLANT or DISTRIBUTION STATION. Grocery stores, restaurants, and similar establishments where MANUFACTURED GRADE DAIRY PRODUCTS are served or sold at retail, but not processed (other than fountain freezing of APPROVED pasteurized MIX for FROZEN DESSERTS), may be exempt from the requirements of this section.

2. Every MANUFACTURED GRADE DAIRY PRODUCTS PLANT and MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATION must obtain a PERMIT. PERMITS are nontransferable with respect to PERSONS and/or locations.

B. Suspension of PERMIT.

1. The DEPARTMENT may suspend a PERMIT whenever:

- a. it has reason to believe that a public health hazard exists;
- b. the PERMIT HOLDER has violated any of the requirements of this regulation;
- c. the PERMIT HOLDER has violated its PERMIT or an order of the DEPARTMENT, including but not limited to, a hold order; or
- d. the PERMIT HOLDER has interfered with the DEPARTMENT in the performance of its duties.

A suspension shall remain in effect until the violation has been corrected to the satisfaction of the DEPARTMENT.

2. The DEPARTMENT may without prior warning or notice, suspend summarily a PERMIT to operate a MANUFACTURED GRADE DAIRY PRODUCTS PLANT or DISTRIBUTION STATION when the DEPARTMENT determines that the operation of the MANUFACTURED GRADE DAIRY PRODUCTS PLANT or DISTRIBUTION STATION, including but not limited to a willful refusal to permit authorized inspection, constitutes an IMMINENT HEALTH HAZARD. Upon summary PERMIT suspension, all manufacturing and distribution operations shall immediately cease. During the process, the PERMIT shall remain suspended unless the IMMINENT HEALTH HAZARD has been corrected.

3. Any MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR whose PERMIT has been suspended may make written application for the reinstatement of the PERMIT.

4. Within seven (7) BUSINESS DAYS of receiving the written application, the DEPARTMENT shall make inspections and/or collect samples for analysis to determine whether the conditions cited in the notice of suspension no longer exist. If conditions warrant, the DEPARTMENT may reinstate the PERMIT.

C. Revocation of PERMIT.

1. The DEPARTMENT may revoke a PERMIT for repeated violations of any of the requirements of this regulation, the PERMIT, or an order of the DEPARTMENT, or for interference with the DEPARTMENT or its staff in the performance of its duties. Notwithstanding any other provisions of this regulation, the PERMIT may be revoked if the DEPARTMENT is threatened with bodily harm or physical interference in the performance of inspectional duties.

2. The DEPARTMENT may deny a new PERMIT based upon past noncompliance, including previous enforcement, suspension, or revocation history.

3. Any PERSON whose PERMIT is revoked shall not be eligible to apply for re-permitting within one (1) year from the date of revocation. Any PERSON whose PERMIT has previously been revoked and who obtains a subsequent PERMIT and violates the provisions of this regulation, resulting in revocation of the PERMIT for a second time, shall not be granted another PERMIT for a period of five (5) years.

SECTION IV. LABELING

MANUFACTURED GRADE DAIRY PRODUCTS must be labeled according to the requirements in 21 CFR Part 101, as amended.

SECTION V. INSPECTION OF MANUFACTURED GRADE DAIRY PRODUCTS PLANTS, AND MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS

A. Each MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER whose MANUFACTURED GRADE DAIRY PRODUCTS are intended for consumption within South Carolina or its jurisdiction shall be inspected by the DEPARTMENT prior to the issuance of a PERMIT.

B. Following the issuance of a PERMIT, the DEPARTMENT will inspect each MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and DISTRIBUTOR at a frequency determined by the RISK level assigned to the product(s) being manufactured or distributed, or as otherwise deemed necessary by the DEPARTMENT to determine compliance with this regulation.

C. When the DEPARTMENT finds a critical processing element violation involving:

1. Improper PASTEURIZATION, whereby every particle of a MANUFACTURED GRADE DAIRY PRODUCT may not have been heated to the proper temperature and held for the required time in properly designed and operated equipment; or

2. cross contamination whereby direct contamination of a PASTEURIZED MANUFACTURED GRADE DAIRY PRODUCT is occurring; or

3. conditions whereby direct contamination of a MANUFACTURED GRADE DAIRY PRODUCT is occurring, the DEPARTMENT shall take immediate action to prevent further processing of such MIX or MANUFACTURED GRADE DAIRY PRODUCT until all violations of critical processing element(s) have been corrected. Should correction of such critical processing elements not be accomplished immediately, the DEPARTMENT will take prompt action to suspend the PERMIT as provided for in Section III of this regulation.

D. In the case of a plant producing ASEPTICALLY PROCESSED MIX, when an inspection of the plant or its records reveal that the process used has been less than the required scheduled process, as per the PMO, it shall be considered an IMMINENT HEALTH HAZARD and the DEPARTMENT shall take immediate action to suspend the PERMIT of the plant for the sale of aseptically processed MANUFACTURED GRADE DAIRY PRODUCTS in conformance with Section III of this regulation.

E. A copy of the inspection report will be provided either electronically or in paper form to the PERMIT HOLDER, manager, or other duly authorized representative.

F. Every MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and DISTRIBUTOR shall, upon request of a DEPARTMENT representative, permit the DEPARTMENT access to all parts of the establishment or facilities to determine compliance with the provisions of this regulation. A PERMIT HOLDER, manager, or other duly authorized representative shall furnish the DEPARTMENT, upon request and for official use only, a true statement of the actual quantities of MANUFACTURED GRADE DAIRY PRODUCT purchased and sold, and a list of all sources of such MANUFACTURED GRADE DAIRY PRODUCT, records of inspections, records of tests, and PASTEURIZATION time and temperature records.

G. It is unlawful for any PERSON who, in an official capacity, obtains any information under the provisions of this regulation which is entitled to protection as a trade secret, to use such information to his or her own advantage or to reveal it to any unauthorized PERSON.

SECTION VI. THE EXAMINATION OF MANUFACTURED GRADE DAIRY PRODUCTS

A. Sampling criteria.

1. Samples of MANUFACTURED GRADE DAIRY PRODUCTS shall be collected by the manufacturer or the DEPARTMENT, as directed, at a frequency that is deemed appropriate by the DEPARTMENT based on the level of RISK of the product.

2. Samples may be taken while in the possession of the manufacturer and/or distributor, retail stores, cafes, restaurants, and other places where MANUFACTURED GRADE DAIRY PRODUCTS are sold and shall be taken and examined as often as the DEPARTMENT may require.

B. Sampling enforcement.

1. Upon receipt of unsatisfactory samples, as specified in (a) and (b) below, the DEPARTMENT shall send a written notice thereof to the PERMIT HOLDER of the MANUFACTURED GRADE DAIRY PRODUCTS PLANT or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATION.

a. For FROZEN DESSERTS this notice shall be sent when two (2) of the last four (4) consecutive bacterial counts (except those for ASEPTICALLY PROCESSED MIX), coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for FROZEN DESSERTS. An additional sample shall be taken within twenty-one (21) days of the sending of such notice, but not

before the lapse of three (3) days. The DEPARTMENT shall suspend the manufacturer and/or distributor's PERMIT in accordance with Section III and/or take court action as necessary whenever the additional sampling results indicate that three (3) of the last five (5) bacterial counts (except those for ASEPTICALLY PROCESSED MIX), coliform determinations, or cooling temperatures exceed the limit of the standard for FROZEN DESSERTS.

b. For CHEESE and BUTTER, this notice shall be sent when a sample is confirmed to be positive for PATHOGENIC organisms. A positive finding of PATHOGENIC organisms in a sample shall be considered an IMMEDIATE HEALTH HAZARD, and the product involved shall not be offered for sale. The DEPARTMENT shall immediately suspend the PERMIT and the PERMIT shall remain suspended until a minimum of two (2) consecutive representative samples are found to be free of PATHOGENIC organisms.

2. Whenever a phosphatase test is positive, the cause shall be determined by the PERMIT HOLDER. Where the cause is improper PASTEURIZATION, it shall be corrected, and any MANUFACTURED GRADE DAIRY PRODUCT involved shall not be offered for sale.

3. Whenever a pesticide residue test is positive, an investigation shall be made to determine the cause, and the product involved shall not be offered for sale. The cause shall be corrected. An additional sample shall be taken and tested for pesticide residues and no MANUFACTURED GRADE DAIRY PRODUCT shall be offered for sale until it is shown by a subsequent sample to be free of pesticide residues or below the actionable levels established for such residues.

4. Whenever a DRUG residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected in accordance with the provision of Section II of this regulation.

5. Whenever a container or containers of ASEPTICALLY PROCESSED MANUFACTURED GRADE DAIRY PRODUCT is found to be unsterile due to under processing, the DEPARTMENT shall consider this to be an IMMEDIATE HEALTH HAZARD and shall suspend the PERMIT of the MANUFACTURED GRADE DAIRY PRODUCT plant for the sale of ASEPTICALLY PROCESSED MANUFACTURED GRADE DAIRY PRODUCT. No ASEPTICALLY PROCESSED MANUFACTURED GRADE DAIRY PRODUCT shall be sold until it can be shown that the processes, equipment, and procedures used are suitable for consistent production of a sterile product. All products, including MANUFACTURED GRADE DAIRY PRODUCT, manufactured in or from the lot found to contain one (1) or more unsterile units shall be recalled and disposed of as directed by the DEPARTMENT.

C. Sampling methods.

Samples shall be analyzed at an official or appropriate OFFICIALLY DESIGNATED LABORATORY. All sampling procedures and required laboratory examinations shall be in substantial compliance with the Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the certification of sample collectors, and examinations shall be evaluated in accordance with the United States Public Health Service/FDA Evaluation of MILK Laboratories. Aseptically processed MANUFACTURED GRADE DAIRY PRODUCTS packaged in HERMETICALLY SEALED CONTAINERS shall be tested in accordance with the FDA's Bacteriological Analytical Manual. Examinations and tests to detect adulterants, including pesticides, shall be conducted as the DEPARTMENT requires.

SECTION VII. STANDARDS FOR MANUFACTURED GRADE DAIRY PRODUCTS PLANTS AND MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS

A. Temperature, bacteriological and chemical requirements.

1. All frozen dessert MIX shall be produced, processed, and PASTEURIZED, ULTRA-PASTEURIZED, or ASEPTICALLY PROCESSED as specified in the PMO and frozen to conform with the following temperature, bacteriological, and chemical standards and the sanitation requirements of this section:

a. RAW MILK and MILK products obtained by a FROZEN DESSERT manufacturer for future PASTEURIZATION, ULTRA-PASTEURIZATION, or ASEPTIC PROCESSING and use in the production of FROZEN DESSERTS must come from an APPROVED source and must be in compliance with the temperature, bacteriological, and chemical standards in R.61-34, Raw Milk for Human Consumption, or R. 61-34.1, Pasteurized Milk and Milk Products, or the PMO.

b. PASTEURIZED FROZEN DESSERTS and/or Heat-Treated, Bulk-Shipped MILK Products:

(1) Temperature – Cooled to 45°F (7°C) or less and maintained thereat.

(2) Bacterial limits* - 30,000 per mL.

(3) Coliform - Not to exceed 10 per mL; provided that, in the case of bulk MILK transport tank shipments, where contents are to be repasteurized, shall not exceed 100 per mL.

(4) Phosphatase** - Less than 500 milliunits/L by the Fluorometer or Clarion ALP or equivalent.

(5) DRUGS - No positive results on DRUG residue detection methods as referenced in Section 6 – Laboratory Techniques, FDA Grade “A” PMO as amended.

c. ASEPTICALLY PROCESSED MIX:

(1) Temperature - None.

(2) Bacterial limits - No growth by test specified in Section VI.

(3) DRUGS - No positive results on DRUG residue detection methods as referenced in Section 6 – Laboratory Techniques, FDA Grade “A” PMO as amended.

*Not applicable to cultured products.

**Not applicable to bulk shipped heat-treated products.

2. Each type of CHEESE shall conform to the sanitation requirements of this section and be produced and processed and PASTEURIZED, ULTRA-PASTEURIZED, and ASEPTICALLY PROCESSED to conform with the temperature, bacteriological, and chemical standards that are outlined below:

a. Except as provided in paragraph A.2.b. below, all MILK and MILK products used in the production of CHEESE shall meet the requirements in either (1) or (2) below:

(1) Be PASTEURIZED or subjected to equivalent heat treatment by the CHEESE manufacturer in accordance with the applicable specifications under the definition of PASTEURIZATION in Section I of this regulation.

a. PASTEURIZATION achieved by methods other than those described in the current PMO must be achieved in accordance with a written procedure that has been APPROVED by the DEPARTMENT; and

b. has been proven by a phosphatase test to achieve PASTEURIZATION.

(2) Be made from PASTEURIZED MILK products or from MILK products which have been subjected to equivalent heat treatment as outlined in Section I of this regulation.

b. If made from RAW MILK (CHEESE labeled as “heat treated”, “unPASTEURIZED”, “RAW MILK”, or “for manufacturing”), CHEESE must be aged for no less than sixty (60) days at a temperature greater than or equal to 35°F (1.7°C) in order to control microbial PATHOGENS.

c. RAW MILK and MILK products obtained by a CHEESE manufacturer for future PASTEURIZATION, ULTRA-PASTEURIZATION, or ASEPTIC PROCESSING and use in the production of CHEESE must come from an APPROVED source and be in compliance with the temperature, bacteriological, and chemical standards in R.61-34, Raw Milk for Human Consumption, or R. 61-34.1, Pasteurized Milk and Milk Products., or the PMO.

d. All CHEESE shall be made from ingredients that conform to the quality specifications for raw materials outlined in 21 CFR 58.430 through 58.437, as amended.

e. Each type of CHEESE must meet the specific standards and limits applicable to it under Subpart B of 21 CFR Part 133, as amended.

3. All BUTTERS shall conform to the sanitation requirements of 21 CFR 117.80 and be produced, processed, and PASTEURIZED, ULTRA-PASTEURIZED, or ASEPTICALLY PROCESSED to conform with the temperature, bacteriological, and chemical standards that are outlined below:

a. All BUTTERS shall be manufactured from MILK or MILK products that have been PASTEURIZED or subjected to equivalent heat treatment in accordance with the applicable specifications under the definition of PASTEURIZATION in Section I of this regulation and shall not be made from RAW MILK or RAW MILK products.

(1) PASTEURIZATION achieved by methods other than those described in the current PMO must be achieved in accordance with a written procedure that has been APPROVED by the DEPARTMENT; and

(2) has been proven by a phosphatase test to achieve PASTEURIZATION.

b. All BUTTERS shall be made from ingredients that conform to the quality specifications for raw materials outlined in 7 CFR 58.322 through 58.331, as amended.

c. BUTTER specifications:

(1) Proteolytic count - Not more than 100 per gram.

(2) Yeast and mold count - Not more than 20 per gram.

(3) Coliform count - Not more than 10 per gram.

(4) Enterococci - Not more than 10 per gram.

4. No process or manipulation other than PASTEURIZATION, ULTRA-PASTEURIZATION or ASEPTIC PROCESSING, freezing, processing methods integral therewith, and appropriate refrigeration (freezing) shall be applied to MANUFACTURED GRADE DAIRY PRODUCTS for the purpose of removing or deactivating MICROORGANISMS.

5. All IMITATION MILK, IMITATION MILK PRODUCTS, AND PRODUCTS MADE IN SEMBLANCE OF MILK AND MILK PRODUCTS shall meet the minimum standards for the MILK or MILK product which it imitates or resembles, including those for fat and solids not fat. To each quart of IMITATION MILK, imitation low-fat MILK, imitation skim MILK, and products made in semblance of these products, 400 U.S.P. units of Vitamin D and 2000 U.S.P. units of Vitamin A shall be added.

B. Post-PASTEURIZATION ingredients.

Only the following flavoring ingredients and other ingredients which have been found to be safe and suitable may be added to a MANUFACTURED GRADE DAIRY PRODUCT after PASTEURIZATION:

1. Fresh fruits and vegetables, provided the resultant equilibrium pH level (4.6 or below when measured at 75°F (24°C)) of the finished product is reached without undue delay and is maintained during the shelf life of the product;

2. Ingredients subjected to prior heating or other technology that has been demonstrated to the FDA to be sufficient to destroy or remove PATHOGENIC MICROORGANISMS;

3. Ingredients having a water activity of 0.85% or less;

4. Ingredients having a high acid content (pH level of 4.6 or below when measured at 75°F (24°C)) or high alkalinity (pH level greater than 11 when measured at 75°F (24°C));

5. Roasted nuts;

6. Dry sugars and salts;

7. Safe and suitable bacterial cultures and enzymes;

8. Alcohol;

9. Ingredients that have been found to be safe and suitable by the FDA.

All such additions shall be made in a sanitary manner that prevents the contamination of the added ingredient or the MANUFACTURED GRADE DAIRY PRODUCT.

C. Sanitation of MANUFACTURED GRADE DAIRY PRODUCTS PLANTS and MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS.

1. All MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURERS and DISTRIBUTORS, regardless of exemption status, shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, and Subpart F - Requirements Applying to Records That Must Be Established and Maintained, as amended.

a. In addition to the requirements in Section VII(C)(1) above, BUTTER plants, BUTTER manufacturers, BUTTER distribution stations, and BUTTER distributors shall comply with 7 CFR 58.311 through 58.321, as amended, and 7 CFR 58.332 through 58.344, as amended.

b. In addition to the requirements in Section, VII(C)(1) above, CHEESE plants, CHEESE manufacturers, CHEESE distribution stations, and CHEESE distributors shall comply with 7 CFR 58.406 through 58.429, as amended, and 7 CFR 58.438 through 58.445, as amended.

2. MANUFACTURED GRADE DAIRY PRODUCTS PLANTS and DISTRIBUTION STATIONS that have been granted a Qualified Facility Exemption by the FDA or that are solely engaged in the storage of refrigerated UNEXPOSED PACKAGED FOODS when temperature controls are necessary to prevent PATHOGEN growth shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, Subpart D - Modified Requirements, and Subpart F - Requirements Applying to Records That Must Be Established and Maintained, and be familiar with Subpart E - Withdrawal of a Qualified Facility Exemption, as amended.

3. All MANUFACTURED GRADE DAIRY PRODUCTS PLANTS and DISTRIBUTION STATIONS that have not been granted a Qualified Facility Exemption by the FDA shall comply with the requirements of 21 CFR Part 117, Subpart A - General Provisions, Subpart B - Current Good Manufacturing Practice, Subpart C - Hazard Analysis and Risk-Based Preventive Controls, and Subpart F - Requirements Applying to Records That Must Be Established and Maintained, as amended.

4. MANUFACTURED GRADE DAIRY PRODUCTS PLANTS and DISTRIBUTION STATIONS that are requiring a withdrawal of their Qualified Facility Exemption from the FDA shall be subject to the requirements of 21 CFR Part 117, Subpart E - Withdrawal of a Qualified Facility Exemption, as amended.

5. MANUFACTURED GRADE DAIRY PLANTS and DISTRIBUTION STATIONS that have not been granted a Qualified Facility Exemption by the FDA and have identified a hazard requiring a supply-chain applied control shall comply with the requirements of 21 CFR Part 117, Subpart G - Supply-Chain Program, as amended.

6. There shall be separate rooms for processing and packaging of different types of MANUFACTURED GRADE DAIRY PRODUCTS as determined by the DEPARTMENT.

7. Water Supply.

a. Water used for MANUFACTURED GRADE DAIRY PRODUCTS PLANT purposes shall be from a supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality. Any water used as an ingredient must be obtained from an APPROVED public water system as defined in R.61-58. Water for MANUFACTURED GRADE DAIRY PLANTS that have not been granted a Qualified Facility Exemption by the FDA must be from an APPROVED public water supply.

b. Firms that have been granted a Qualified Facility Exemption by the FDA shall have their water supply tested. Samples for bacteriological testing of individual water supplies may be taken by the DEPARTMENT or by other APPROVED individuals with the results to be submitted to the DEPARTMENT upon the initial approval of the physical structure, annually thereafter, and when any repair or alteration of the water supply system has been made. Examinations shall be conducted in an OFFICIAL LABORATORY at the MANUFACTURED GRADE DAIRY PRODUCT PLANT'S expense. The plant must maintain records of the tested samples.

SECTION VIII. MANUFACTURED GRADE DAIRY PRODUCTS FROM OUT OF STATE OR OUTSIDE THE UNITED STATES

MANUFACTURED GRADE DAIRY PRODUCTS from out of state or outside the United States may be sold in South Carolina only if the DEPARTMENT determines they are manufactured and distributed under provisions substantially equivalent to the requirements of this regulation and adequately enforced.

SECTION IX. PLANS FOR CONSTRUCTION AND RECONSTRUCTION

Properly prepared plans for all MANUFACTURED GRADE DAIRY PRODUCTS PLANTS or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS regulated under this regulation which are to be constructed, reconstructed, or extensively altered shall be submitted to the DEPARTMENT for written approval before work is begun.

SECTION X. EQUIPMENT AND FACILITIES IN OPERATION PRIOR TO JULY 1, 2020

Equipment and physical facilities of MANUFACTURED GRADE DAIRY PRODUCTS PLANTS and MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTION STATIONS in operation prior to July 1, 2020 are deemed in compliance even if they do not meet all construction, equipment, and facilities requirements of this regulation if the facilities and equipment:

- A. Are in compliance with the regulatory standards in place for such equipment and facilities on January 1, 2020;
- B. Are capable of being maintained in a sanitary condition;
- C. Are not a public health hazard or NUISANCE; and
- D. Are replaced in the normal course of operation with equipment and facilities that meet the requirements of this regulation.

This section shall not apply to equipment installed or construction commenced on or after July 1, 2020.

SECTION XI. PROCEDURE WHEN INFECTION OR HIGH RISK INFECTION IS SUSPECTED

When reasonable cause exists to suspect the possibility of transmission of infection from any PERSON concerned with the handling of MANUFACTURED GRADE DAIRY PRODUCTS, or their ingredients, the DEPARTMENT is authorized to require any or all of the following measures:

- A. The immediate EXCLUSION of that PERSON from handling MANUFACTURED GRADE DAIRY PRODUCTS, or their ingredients;
- B. The immediate EXCLUSION of the MANUFACTURED GRADE DAIRY PRODUCTS of concern from distribution and use; and/or
- C. Adequate medical and bacteriological examination of the PERSON, of their associates, and any of their bodily discharges.

SECTION XII. RECALLS

For MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURERS and DISTRIBUTORS that have not been granted a Qualified Facility Exemption by the FDA, the Recall Plan requirements of 21 CFR 117.139 supersede the requirements of this section.

If 21 CFR 117.139 does not apply, each MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR shall develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any said procedure as necessary with respect to any product for which the PERMIT HOLDER or the DEPARTMENT has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the DEPARTMENT determines, based upon representative samples, RISK analysis, information provided by the MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and/or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR, and/or other information available to the DEPARTMENT, that the circumstances present an IMMINENT HEALTH HAZARD and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the DEPARTMENT may order the MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and/or MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR to initiate a level of product recall or, if appropriate, issue a form of notification to customers. Each MANUFACTURED GRADE DAIRY PRODUCTS MANUFACTURER and MANUFACTURED GRADE DAIRY PRODUCTS DISTRIBUTOR shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.

SECTION XIII. ENFORCEMENT AND PENALTIES

Any PERSON found to be in violation of this regulation, in non-compliance with the issued PERMIT, or in violation of an order issued by the DEPARTMENT shall be subject to civil monetary penalties, PERMIT suspension, and/or PERMIT revocation. Each day of continued violation shall be a separate offense.

SECTION XIV. SEVERABILITY CLAUSE

Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

Fiscal Impact Statement:

There are no anticipated new costs associated with the implementation of this regulation to the state or its political subdivisions.

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: 61-35, Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products; and 61-36, Frozen Desserts.

Purpose: This amendment strikes the text of the existing regulations in total, repeals the text of R.61-35, combines the revised text of both to align with current standards of the most recent edition of the CFR, and includes provisions for the regulation of additional non-grade "A" dairy products, such as cheese and butter. The existing regulations are based on 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, which has been replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The

new federal regulation updates good manufacturing processes to be implemented by the regulated community and also incorporates new preventive controls for minimizing or preventing food safety hazards. The PMO also has been recently updated, and the necessary provisions for pasteurization of fluid milk used in the production of these products have been incorporated into this revision. The new federal regulation facilitates combining all manufactured dairy products into one streamlined regulation, instead of two separate regulations with repetitive content.

Legal Authority: 1976 Code Sections 44-1-140(3) and 44-1-150.

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 and repeals. 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 repeals and any associated information.

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

The purpose of R.61-36, Frozen Desserts, and R.61-35, Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products, is to safeguard public health and provide consumers safe, unadulterated frozen dessert and imitation dairy food products manufactured in South Carolina to be sold and distributed both in state and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of frozen desserts and imitation dairy foods that are not regulated as "Grade A" milk under the provisions of R.61-34, Raw Milk for Human Consumption, or R.61-34.1, Pasteurized Milk and Milk Products. The regulations are based on Title 21, Part 110, of the Code of Federal Regulations (21 CFR Part 110).

The Department last amended R.61-36 in 2004. Earlier this year, 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food was replaced with 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. There have been numerous changes in the manufactured food industry, including changes to food handling practices, food equipment technology, and food preparation processes, making R.61-36 and R.61-35 outdated. The new federal regulation updates good manufacturing processes and incorporates new preventive controls for minimizing or preventing food safety hazards.

The Department is amending the provisions of R.61-36, Frozen Desserts, and R.61-35, Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products to incorporate standards of the new federal regulation. The structure of the federal regulation also facilitates combining provisions governing all manufactured dairy products into one streamlined regulation, instead of separate regulations with repetitive content. As part of this new streamlined regulation, the Department is adding requirements for manufacturing cheese, butter, and other non-grade "A" milk products. The South Carolina Department of Agriculture previously oversaw requirements for cheese and butter products (also under 21 CFR Part 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food); however, per agreement between the two agencies, the Department has assumed oversight responsibility with respect to these products. Furthermore, the U.S. Food and Drug Administration (FDA) recently updated the PMO, and the necessary provisions for pasteurization of fluid milk used in the production of these products have been incorporated into this revision.

The amendments to these regulations serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. In addition to clarification and updating of

state-specific regulatory provisions, these amendments incorporate current federal standards, which have replaced preexisting federal standards upon which the Department's existing, unrevised regulations are based. This serves to reduce administrative burdens on the regulated community by facilitating streamlined inspections and compliance under both state and federal requirements.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of this regulation. The amendments will benefit public health by ensuring safe, unadulterated dairy food and dairy food products at manufacturing plants and throughout the distribution chain. The amendments to these regulations also serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. The amendment of R.61-36 to align with the most recent edition of the CFR and incorporate the most recent changes to the PMO will allow the regulation to conform to the current national standards. Industry will benefit by having an aligned set of rules to comply with for federal inspections that may be conducted by the FDA, those conducted by the Department for the FDA, and those conducted for the state under this regulation. Such alignment also allows for facilities to undergo one inspection, conducted by the Department under this regulation, to satisfy both federal and state oversight. The amendments also combine provisions governing different manufactured dairy products into one streamlined regulation, instead of separate regulations with repetitive content.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of this regulation will not compromise the protection of the environment or the public health. The regulation will help to ensure that consumers are receiving safe, unadulterated dairy food and dairy food products. The amendment of R.61-36 to conform to the most recent edition of the CFR also provides effective means of reducing the risks of foodborne illnesses within dairy food manufacturing plants, thus protecting consumers and industry from potentially devastating public health consequences and financial loss. Incorporation of the Food Safety Modernization Act compliant 21 CFR Part 117, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food, and the new preventive controls for minimizing or preventing food safety hazards allows for better training and understanding of risk by those in charge of food safety in processing plants.

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

There will be no adverse effect on the environment if the regulations are not implemented.

Failure to adopt these amendments would prevent implementation of the latest sanitary standards and a comprehensive approach to food safety management needed in addressing food protection in the manufactured dairy products industry. This could have a detrimental effect on the health of South Carolina's citizens and visitors.

Statement of Rationale:

The Department promulgates these amendments to meet the latest sanitation requirements for providing safe, unadulterated manufactured grade dairy products to consumers. Furthermore, the amendments allow for one inspection, conducted by the Department under this regulation, to satisfy both federal and state

oversight. The amendments also combine provisions governing different manufactured grade dairy products into one streamlined regulation, instead of two separate regulations with repetitive content.

Date: December 12, 2019

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

From: Office of Budgets and Financial Planning

Re: Public Hearing for Notice of Final Regulation Repealing R.61-1, Medical and Dental Scholarship Fund, Document No. 4898

I. Introduction

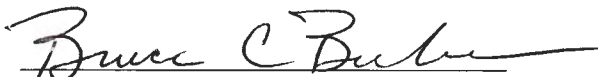
The Office of Budgets and Financial Planning proposes the attached Notice of Final Regulation repealing R.61-1, *Medical and Dental Scholarship Fund*. Legal authority resides in S.C. Code Sections 59-111-510 through 59-111-580, which established and outlined how the program was to be managed through the Department of Health and Environmental Control ("Department"). The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this proposed repeal.

II. Facts

1. S.C. Code Sections 59-111-510 through 59-111-580 established a Medical and Dental Scholarship Fund to be administered by the Department. Pursuant to S.C. Code Section 59-111-580, the Department promulgated R.61-1 to administer the program. In 1985, the General Assembly amended the statute to eliminate references to scholarships, leaving the program as only a loan fund, revised certain program criteria, and made other changes to the program. The regulation was never revised to conform to the amended statute.
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 repeal on August 7, 2019.
4. The Office of Budgets and Financial Planning emailed and phoned SC AHEC Executive Director Ann Lefebvre, MSW, CPHQ to inform the organization of the proposed drafting and rationale for the repeal.
5. The Department had a Notice of Proposed Regulation published in the September 27, 2019, *State Register*. The Department received public comments from (no) people by the October 28, 2019, close of the public comment period. .

III. Request for Approval

The Office of Budgets and Financial Planning respectfully requests the Board to find need and reasonableness of the attached proposed repeal of R.61-1, *Medical and Dental Scholarship Fund*, for submission to the General Assembly.


Bruce C. Busbee
Office of Budgets and Financial Planning


Darbi C. MacPhail
Finance and Operations Director

Attachments:

A. Notice of Final Regulation

ATTACHMENT A

STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.61-1, Medical and Dental Scholarship Fund

December 12, 2019

Document No. 4898

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 59-111-510 through 59-111-580

61-1. Medical and Dental Scholarship Fund.

Synopsis:

The Department of Health and Environmental Control (“Department”) repeals R.61-1, which implements a Medical and Dental Scholarship/Loan Fund established by S.C. Code Sections 59-111-510 through 59-111-580. The Fund was intended to provide financial assistance for medical and dental school educations to recipients who would agree to practice in a rural area of the state for a specified period of time. The fund had originally been a scholarship program when the regulation was first adopted but was converted by statute to a loan fund in 1985; however, the regulation was never amended to conform to the amended statute. The General Assembly last funded the program in the 1988 Appropriations Act for the 1988-1989 fiscal year. The last recipients completed their service obligations in 1996 following three years of residency and four years of service.

In 1989, when the S.C. General Assembly ceased to fund the Medical and Dental Loan Fund, it established a Rural Physician Program to address the undersupply of clinicians in rural and underserved South Carolina communities. The new program is administered by the South Carolina Area Health Education Consortium and fiscally managed by the Medical University of South Carolina. The program provides incentive grants for primary care physicians and advanced practice professionals who commit to practice in a rural or underserved area of South Carolina for a period of four years. Per S.C. Code Section 59-123-125, the Department’s only current involvement with this fund extends to the SC DHEC Commissioner/Director or designee serving on the Rural Physician Board.

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*. A Notice of Proposed Regulation was published in the September 27, 2019 *State Register*.

Instructions: Repeal R.61-1, Medical and Dental Scholarship Fund, in its entirety in the South Carolina Code of Regulations.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

~~61-1. Medical and Dental Scholarship Fund.~~

~~1. Public Notice: As soon as the initial appropriation to the Fund is approved by the Governor, and at appropriate intervals (at least annually) thereafter, the Office of Communications of the Department of Health and Environmental Control shall send a news release to all news media in South Carolina and nearby~~

~~communities describing the availability of scholarship funds, the persons eligible, the contractual obligations to be assumed by successful applicants, and the address for application forms and information.~~

~~2. Assignment of Responsibility in Department: The Commissioner shall designate an office in the Department to be responsible for distribution of application forms approved by the Board, for collection of completed forms, and for performing other staff functions related to the operation of the Fund.~~

~~3. Deadline for Receipt of Applications: The Board may set from time to time appropriate dates after which no more applications will be accepted for a particular granting period. In order that all applicants be given equal consideration, such deadlines will allow adequate time for processing the applications prior to final selection of successful applicants by the Board.~~

~~4. Legal Residency in South Carolina: South Carolina residency shall be established in accordance with the principles of Section 59-101-70, S.C. Code, as amended, which currently provides in part as follows: "Persons who have been domiciled in South Carolina for a period no less than twelve months with an intention of making a permanent home therein, including persons in their majority, emancipated minors and unemancipated minors whose parents have been domiciled in this State for no less than twelve months with an intention of making a permanent home herein may be considered South Carolina residents, provided that where the parents of an unemancipated minor are living apart or are separated, divorced, or deceased, the residency of the child shall be determined by the place of domicile of the parent or legal guardian with whom the child normally resides. Students making application for residency status shall have the burden of proving that these requirements are met."~~

~~5. Investigation of Fitness of Applicants: The office designated in paragraph 2 shall make a careful and full investigation of the ability, character and qualifications of each applicant to determine his fitness. The office shall submit a written summary of its findings on each applicant to the Board through the Commissioner. This investigation shall include a sharing of information pertaining to the applicant with the medical or dental school(s) which has accepted him for enrollment and a visit to his home community contacting his family, his church, his school, his credit references, law enforcement authorities, and other knowledgeable persons. Each applicant shall be required to sign a release form authorizing any person or agency having information about his ability, character and qualifications to release such information to the Board or its agents.~~

~~6. Appearance before Board: The Board may examine each applicant to assist in determining if he is qualified.~~

~~7. Duration of Loan or Scholarship: Each loan or scholarship shall be for a period of one year. However, recipients of a loan or scholarship who successfully complete the related year of study shall have first priority on unobligated funds for renewal of the loan or scholarship for the succeeding year.~~

~~8. Amount of Loan or Scholarship: Each loan or scholarship shall consist of two parts: (1) Payment of tuition and other school related expenses up to a total of \$5000 per year, and (2) an allowance of \$100 per month for living expenses.~~

~~9. Practice Selection: Each loan or scholarship shall be based upon the condition that on or before six months from the date the applicant completes one year of internship he engage in the general practice of medicine or dentistry in a county within the State which has a doctor ratio of not more than one doctor for each two thousand people or a dentist ratio of not more than one dentist for each four thousand people. The Department shall keep a list of the counties having such ratios and the applicant may choose which of these counties he desires to practice in.~~

~~10. Determination of Doctor and Dentist Ratios: The number of doctors and dentists practicing in counties shall be primarily based on the latest data from the State Board of Medical Examiners and the State Board of Dentistry pertaining to practitioners licensed and registered by these Boards. The Board of Health and Environmental Control may also take into consideration the Federal physicians assigned in the counties inasmuch as the people they serve are included in the population of the counties. The population used in calculating the ratios shall be the estimate of the Research and Statistical Services Division of the Budget and Control Board closest to the time of assembly of the information from which the number of professionals is derived.~~

~~11. Repayment of Loan or Scholarship: For each year during which an applicant benefits from a loan or scholarship he shall be required to engage in practice as defined in paragraph 9 for one year. Such work shall in addition constitute a repayment of the loan or scholarship. Applicants who receive a scholarship or loan for four years shall only be required to practice in such a county for three years, at the end of which time the loan shall be considered paid in full. Where the Board is convinced that there is justifiable cause which the applicant could not have foreseen, the Board may allow him to repay the loan or scholarship by paying in cash the full amount of the loan or scholarship, plus 7% interest per year compounded semiannually.~~

~~12. Contracts with Applicants: Before being granted a loan or scholarship, each applicant shall enter into a contract with the Board, agreeing to the terms and conditions upon which the loan or scholarship shall be granted to him. The contract shall include terms and provisions to carry out the purpose and intent of paragraphs 7 through 10 and 14 of these regulations. It shall be signed by the chairman of the Board, countersigned by the executive secretary of the Board, and signed by the applicant.~~

~~13. Contracts with Professional Schools: The Board may make arrangements and execute contracts with approved medical or dental schools for the admission of students granted loans or scholarships by the Board. Such contracts may provide for the payment of tuition and other school related expenses directly to the schools. The Board, upon proper notice, may cancel any contract made with such institutions.~~

~~14. Failure of Recipient to Fulfill Contract: If the recipient of a scholarship fails without justifiable cause to practice medicine or dentistry in accordance with the terms of his contract, three times the entire amount of the scholarship benefits received, plus 7% interest per year compounded semiannually shall become due and payable. However, if the Board determines there is justifiable cause for the failure to practice pursuant~~

~~to the terms of the contract, it may relieve the recipient of the obligation to practice according to the terms of the contract, and shall provide for repayment of the amount received, plus 7% interest per year on any terms it may deem proper. Upon recommendation and request of the Board, the Attorney General shall institute proceedings for the purpose of recovering any amount due the State upon breach of the contract.~~

~~15. Receipts and Expenditures: Funds appropriated and all sums received in repayment of loans and scholarships shall be placed in the State Treasury to the credit of the South Carolina Medical and Dental Scholarship Fund. Loan and scholarship payments shall be paid out of this fund upon a voucher to the State Comptroller General signed by the chairman and the executive secretary of the Board. [Repealed].~~

Fiscal Impact Statement:

No fiscal impact to the agency.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-1, Medical and Dental Scholarship Fund.

Purpose: R.61-1 is no longer needed because when the S.C. General Assembly ceased to fund the Medical and Dental Loan Fund, it established a Rural Physician Program to address the undersupply of clinicians in rural and underserved South Carolina communities. The new program is administered by the South Carolina Area Health Education Consortium and fiscally managed by the Medical University of South Carolina. Should the General Assembly decide to fund the Medical and Dental Fund the statute provides for funding loans without the need for regulation.

Legal Authority: 1976 Code Sections 59-111-510 through 59-111-580.

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

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

The General Assembly last funded the program in the 1988 Appropriations Act for the 1988-1989 fiscal year. The last recipients completed their service obligations in 1996 following three years of residency and four years of service. Since the General Assembly has not funded the Medical and Dental Scholarship/Loan program since FY 1989, the Department has had no funds to administer and the program has been dormant for the past thirty years. As such, the Department repeals R.61-1.

DETERMINATION OF COSTS AND BENEFITS:

There are no costs to the state or its political subdivisions associated with the repeal of R.61-1. The benefit of repealing this regulation is removing an unnecessary regulation that is no longer consistent with the statute.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Repealing R.61-1 will have no effect on the environment and public health.

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

Repealing R.61-1 will have no detrimental effect on the environment and public health.

Statement of Rationale:

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

The fund had originally been a scholarship program when the regulation was first adopted but was converted by statute to a loan fund in 1985; however, the regulation was never amended to conform to the amended statute. The General Assembly last funded the program in the 1988 Appropriations Act for the 1988-1989 fiscal year. The last recipients completed their service obligations in 1996 following three years of residency and four years of service. In 1989, when the S.C. General Assembly ceased to fund the Medical and Dental Loan Fund, it established a Rural Physician Program to address the undersupply of clinicians in rural and underserved South Carolina communities. The new program is administered by the South Carolina Area Health Education Consortium and fiscally managed by the Medical University of South Carolina.

South Carolina Board of Health and Environmental Control
Final Review Conference
December 12, 2019

Final Review Conference Docket No. 19-RFR-48, Maguro Enterprises, LLC – Groundwater Withdrawal Permit, Berkeley County, Permit No. 08IN015, for groundwater withdrawal at source 08IN015G01.

A Request for Final Review was filed on October 23, 2019.

Counsel of Record –

Matthieu Erramuzpe and Catherine Wannamaker for South Carolina Coastal Conservation League

Mary D. Shahid for Maguro Enterprises, LLC

Nathan Haber for SCDHEC

Table of Contents

Note: Page #s for this record are located on the bottom of the page.

Staff Decision (Groundwater Withdrawal Permit # 08IN015) – page 1 of 549

Request for Final Review – page 5 of 549

Email Communications to Board – page 113 of 549

Staff Response – page 537 of 549

Acknowledgment Memorandum from Clerk – page 546 of 549

Notice of Final Review Conference – page 548 of 549