

SUMMARY SHEET  
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

August 13, 2020

- ( ) ACTION/DECISION  
(X) INFORMATION

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

**II. SUBJECT:** Healthcare Quality Administrative Orders and Consent Orders for the period of February 1, 2020 through June 30, 2020.

**III. FACTS:** For the period of February 1, 2020 through June 30, 2020, Healthcare Quality reports eight Consent Orders totaling \$59,800 in assessed monetary penalties. No Administrative Orders or Emergency Suspension Orders were executed during the reporting period.

Healthcare Quality Bureau	Facility, Service, Provider, or Equipment Type	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
<b>Bureau of Facilities Oversight</b>	Community Residential Care Facility	0	1	0	\$4,300
	Nursing Home	0	2	0	\$42,300
<b>Bureau of Healthcare Professionals</b>	Ambulance Services	0	2	0	\$5,000
	Emergency Medical Technician	0	1	0	\$500
<b>Bureau of Radiological Health</b>	Dental X-Ray	0	1	0	\$1,700
	Industrial Gauging Facility	0	1	0	\$6,000
<b>TOTAL</b>		<b>0</b>	<b>8</b>	<b>0</b>	<b>\$59,800</b>

Submitted By:

*Gwendolyn C. Thompson*

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Gwen C. Thompson  
Director of Healthcare Quality

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

August 13, 2020

**Bureau of Facilities Oversight**

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Community Residential Care Facility	498	21,939

**1. Quality Care Services, Inc. d/b/a Southern Heritage – West Columbia, SC**

Inspections and Investigations: The Department conducted three investigations and three inspections throughout 2017 and 2018, and found that the facility repeatedly violated several regulatory requirements.

Violations: The Department cited the facility for a total of 25 violations throughout all visits, including three repeat violations, for failing to comply with both Regulation 61-84, *Standards for Licensing Community Residential Care Facilities* and Regulation 61-25, *Retail Food Establishments*. The violations involved failing to report a serious incident of resident abuse, failing to conduct criminal background checks for staff, inaccurate records for controlled substances, improper food and kitchen preparation, insufficient training records, missing documentation, and insufficient safety checks for the facility's equipment and building.

Enforcement Action: The parties met for an enforcement conference in February 2019, and were unable to reach an agreement to resolve the enforcement. The Department issued an administrative order to the facility in October 2019 imposing a \$8,100 monetary penalty. The facility filed a request for final review (RFR) of the order from the facility. The facility filed a request for a contested case hearing with the Administrative Law Court (ALC) in December 2019. The parties subsequently agreed to resolve the matter with a consent order. In June 2020, the parties agreed to the ALC's Consent Order of Dismissal with Prejudice imposing a civil monetary penalty of \$4,300 against the facility. The penalty shall be paid in two installments. The facility was required to pay the first installment of \$2,150 of the assessed penalty within 45 days of executing the Consent Order of Dismissal with Prejudice. The remaining \$2,150 of the penalty shall be due and payable within 90 days of the executed order. The Department has not received the first payment.

Prior Actions: None in the past five years.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Nursing Home	194	20,505

## **2. Midlands Health and Rehabilitation Center – Columbia, SC**

Inspections and Investigations: The Department conducted six investigations and three inspections in 2019, and found that the facility repeatedly violated several regulatory requirements.

Violations: The Department cited the facility for a total of 54 violations throughout all visits in 2019, including 11 repeat violations, for failing to comply with Regulation 61-17, *Standards for Licensing Nursing Homes*. The violations involved policies and procedures, unhygienic practices, improper medical storage, insufficient training records, a myriad of missing documentation, and refusing to allow investigators access to all areas and records.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. In February 2020, the parties executed a consent order imposing a civil monetary penalty of \$24,600 against the facility. The facility was required to pay \$14,760 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$9,840 of the penalty will be stayed for six months. The facility has made the required payment. The facility was also required to attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order, but the meeting was postponed due to the COVID-19 state of emergency. The Department will notify the facility in the future when a compliance assistance meeting can be scheduled.

Prior Actions: None in the past five years.

## **3. Magnolia Manor-Inman – Inman, SC**

Inspections and Investigations: The Department conducted eleven investigations and two inspections throughout 2018 and 2019, and found that the facility repeatedly violated several regulatory requirements.

Violations: The Department cited the facility for a total of 35 violations throughout all visits, including 8 repeat violations, for failing to comply with Regulation 61-17, *Standards for Licensing Nursing Homes*. The violations involved policies and procedures, improper medical storage, inaccurate records of medicine administration and disposal, insufficient staffing ratios, insufficient training records, and a myriad of missing documentation.

Enforcement Action: The parties conducted an enforcement conference and agreed to resolve the matter with a consent order. In May 2020, the parties executed a consent order imposing a civil monetary penalty of \$17,700 against the facility. The facility was required to pay \$10,600 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$7,100 of the penalty will be stayed for six months. The facility has made the required payment. The facility is also required to attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The Department will notify the facility in the future when a compliance assistance meeting can be scheduled.

Prior Actions: None in the past five years.

**Bureau of Healthcare Professionals**

<b>Provider Type</b>	<b>Total # of Licensed Providers</b>
Ambulance Services	269

**4. Southstar Ambulance Service – Ambulance Service Provider**

Inspections and Investigations: On January 9, 2020, the Department conducted an investigation and discovered that the ambulance service provider was in violation of statutory and regulatory requirements.

Violations: The Department determined that Southstar Ambulance Service violated the EMS Act and Regulation 61-7, *Emergency Medical Services*, by allowing an uncertified person to provide patient care within the scope of an Emergency Medical Technician (EMT) on 75 ambulance runs from May 2017 through January 2020.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In June 2020, the parties executed a consent order imposing a civil monetary penalty of \$2,500 against the ambulance service provider. The provider was required to pay \$500 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$2,000 of the penalty will be stayed for 12 months. The provider has made the required payment.

Prior Actions: None in the past five years.

**5. Berkeley County Emergency Medical Services – Ambulance Service Provider**

Inspections and Investigations: On January 9, 2020, Berkeley County Emergency Medical Services (EMS) self-reported to the Department that it was in violation of statutory and regulatory requirements. The Department investigated this self-reported violation.

Violations: The Department determined that Berkeley County EMS violated the EMS Act and Regulation 61-7, *Emergency Medical Services*, by allowing an uncertified person to provide patient care within the scope of an Emergency Medical Technician (EMT) on 19 ambulance runs from September to October 2019.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In June 2020, the parties executed a consent order imposing a civil monetary penalty of \$2,500 against the ambulance service provider. The provider was required to pay \$500 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$2,000 of the penalty will be stayed for 12 months. The facility has made the required payment.

Prior Actions: None in the past five years.

Provider Type	Total # of Certified Providers
Emergency Medical Technician (EMT)	6,735

**6. Brianna Jalyn Galloway – EMT**

Inspections and Investigations: On January 9, 2020, Berkeley County EMS reported to the Department that Ms. Galloway was an uncertified employee working for their agency in violation of statutory and regulatory requirements. The Department investigated this reported violation.

Violations: The Department determined that Ms. Galloway violated the EMS Act and Regulation 61-7, *Emergency Medical Services*, by not possessing a valid South Carolina EMT certification when she provided patient care within the scope of an EMT on 19 ambulance runs from September to October 2019.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In June 2020, the parties executed a consent order imposing a civil monetary penalty of \$500 against Ms. Galloway. The EMT was required to pay \$100 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$400 of the penalty will be stayed for 12 months. The EMT has made the required payment.

Prior Actions: None in the past five years.

**Bureau of Radiological Health**

Facility Type	Total # of Registered Facilities
Dental X-Ray	1,774

**7. Chadwick J. Golden, DMD – Dental X-Ray Facility**

Inspections and Investigations: The Department conducted a routine inspection in July 2019 and found that the registrant had violated statutory and regulatory requirements.

Violations: The Department determined that the registrant violated the Atomic Energy and Radiation Control Act and Regulation 61-64, *X-Rays*, for failing to conduct equipment performance testing on dental x-ray systems when testing was due in 2017 and 2019.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In June 2020, the parties executed a consent order imposing a civil monetary penalty of \$1,700 against the registrant. The registrant was required to pay \$255 of the assessed penalty within 30 days of executing the Consent Order. The remaining \$1,445 of the penalty will be stayed. The registrant has made the required payment.

Prior Actions: None in the past five years.

License Type	Total # of Licensees
Industrial Gauging Facility	40

**8. Fiber Industries – Darlington, SC**

Inspections and Investigations: On April 26, 2019, the licensee self-reported to the Department that it was in violation of statutory and regulatory requirements. The Department conducted an onsite investigation on June 2019 of this self-reported violation.

Violations: The Department determined that the licensee violated the Atomic Energy and Radiation Control Act and Regulation 61-63, *Radioactive Materials (Title A)*, by causing individuals to receive radiation doses in excess of regulatory limits. The Department received dose assessment reports in June and July of 2019 confirming that the personnel contracted to clean the vats were exposed to radiation beams in excess of 0.01 rem.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In June 2020, the parties executed a consent order imposing a civil monetary penalty of \$6,000 against the registrant. The licensee was required to pay the full amount of the penalty within 30 days of executing the Consent Order. The Department has not received the required payment.

Prior Actions: None in the past five years.

SUMMARY SHEET  
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
August 13, 2020

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

X  INFORMATION

1. **TITLE:** Administrative and Consent Orders issued by the Office of Environmental Affairs.
2. **SUBJECT:** Administrative and Consent Orders issued by the Office of Environmental Affairs during the period May 1, 2020, through June 30, 2020.
3. **FACTS:** For the reporting period of May 1, 2020, through June 30, 2020, the Office of Environmental Affairs issued forty-three (43) Consent Orders with total assessed civil penalties in the amount of one hundred fifty-five thousand, six hundred seventy-seven dollars and fifty cents (\$155,677.50). Also, fifteen (15) Administrative Orders were reported during this period with total assessed civil penalties in the amount of four thousand dollars (\$4,000.00).

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Orders	Assessed Penalties
<b>Land and Waste Management</b>				
UST Program	0	0	5	\$5,425.00
Aboveground Tanks	0	0	0	0
Solid Waste	0	0	7	\$12,400.00
Hazardous Waste	1	\$4,000.00	2	\$7,100.00
Infectious Waste	0	0	2	\$29,600.00
Mining	0	0	0	0
<b>SUBTOTAL</b>	<b>1</b>	<b>\$4,000.00</b>	<b>16</b>	<b>\$44,525.00</b>
<b>Water</b>				
Recreational Water	0	0	0	0
Drinking Water	0	0	3	0
Water Pollution	0	0	8	\$93,402.50
Dam Safety	0	0	0	0
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>\$93,402.50</b>
<b>Air Quality</b>				
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Environmental Health Services</b>				
Food Safety	0	0	12	\$14,250.00
Onsite Wastewater	14	0	4	\$3,500.00
<b>SUBTOTAL</b>	<b>14</b>	<b>0</b>	<b>16</b>	<b>\$17,750.00</b>
<b>OCRM</b>				
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>15</b>	<b>\$4,000.00</b>	<b>43</b>	<b>\$155,677.50</b>

Submitted by:

*Myra C. Reece*

Myra C. Reece

Director of Environmental Affairs

**ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT  
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
August 13, 2020**

**BUREAU OF LAND AND WASTE MANAGEMENT**

**Underground Storage Tank Enforcement**

- 1)     Order Type and Number:                     Consent Order 19-0300-UST  
       Order Date:                                 May 19, 2020  
       Individual/Entity:                         **Shiv One, LLC**  
       Facility:                                     Coosawhatchie General Store  
       Location:                                     6282 West Frontage Road  
   Coosawhatchie, SC 29936  
       Mailing Address:                             Same  
       County:                                     Jasper  
       \*Previous Orders:                             19-0228-UST (\$870.00)  
       Permit/ID Number:                         10422  
       Violations Cited:                         The State Underground Petroleum  
   Environmental Response Bank Act of 1988 (SUPERB Act), S.C. Code Ann. § 44-  
   2-10 et seq. (2018), and South Carolina Underground Storage Tank Control  
   Regulation, 7 S.C. Code Ann., R.61-92 280.93(a) and 280.110(c) (2012 & Supp.  
   2018).

Summary: Shiv One, LLC (Individual/Entity), owns underground storage tanks located in Jasper County, South Carolina. The Department conducted an inspection on July 5, 2019 and issued a Notice of Alleged Violation. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation as follows: failed to maintain corrosion protection on a temporarily closed USTs for a twelve (12) month period. As of May 19, 2020, the Entity has begun testing its USTs.

Action: The Individual/Entity is required to: submit either a passing metal integrity test results for all USTs or a completed UST Tank and Sludge Disposal Form, permanently close the USTs, and submit a UST Closure and Assessment Report. The Department assessed a total civil penalty in the amount of fourteen thousand dollars (\$14,000.00). The Individual shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**) and pay a suspended penalty in the amount of thirteen thousand dollars (\$13,500.00) should any requirement of the Order not be met.



2)     Order Type and Number:                     Consent Order 19-0495-UST  
       Order Date:                                 May 19, 2020  
       Individual/Entity:                         **Low Country Legacy Real Estate LLC**  
       Facility:                                     Highway 21 Mini Mart  
       Location:                                     2706 B Trask Parkway  
   Burton, SC 29902  
       Mailing Address:                             P. O. Box 2522  
   Bluffton, SC 29910  
       County:   Beaufort  
       Previous Orders:                             None  
       Permit/ID Number:                         14441  
       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. 61-92.280.34(c), 280.43(d), 280.242(b)(3),  
   and 280.242(b)(4) (2012 & Supp. 2019).

Summary: Low Country Legacy Real Estate LLC (Individual/Entity) owns a compartmented underground storage tank (UST) located in Burton, South Carolina. A Transfer of Ownership/Notice of Alleged Violation was issued October 4, 2019. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to conduct release detection using automatic tank gauge for an UST system; failed to provide records to the Department upon request; and, failed to conduct monthly inspections and physically visit the Facility once a quarter.

Action: The Individual/Entity is required to: submit tank tightness test results for each compartment of the UST; submit evidence that the UST compartments contain less than one inch (1) of residue; and submit a Class A/B operator log. The Department has assessed a total civil penalty in the amount of two thousand, twenty-five dollars (\$2,025.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand, twenty-five dollars (**\$2,025.00**).

3)     Order Type and Number:                     Consent Order 19-0518-UST  
       Order Date:                                 May 26, 2020  
       Individual/Entity:                         **Cindy Cody Johnson**  
       Facility:                                     Johnson Country Store  
       Location:                                     305 Main Street  
   Lowndesville, SC 29640  
       Mailing Address:                             2221 Coal Pit Road  
   Greer, SC 29651  
       County:   Abbeville  
       Previous Orders:                             None  
       Permit/ID Number:                         15936

Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 et seq. (2016) (SUPERB Act); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-92, 280.93(a) and 280.110(c) (2012 and Supp. 2019)

Summary: Cindy Cody Johnson (Individual/Entity) owns and operates underground storage tanks (USTs) in Lowndesville, South Carolina. The Department issued a Notice of Alleged Violation on November 1, 2019, as a result of a file review. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation as follows: failed to demonstrate financial responsibility for an UST system and failed to provide evidence of financial assurance to the Department upon request.

Action: The Individual/Entity is required to: submit a completed Certificate of Financial Responsibility (CFR) form and provide evidence of financial assurance. The Department has assessed a total civil penalty in the amount of one thousand, four hundred dollars (\$1,400.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, four hundred dollars (**\$1,400.00**).

4) Order Type and Number: Consent Order 20-0036-UST  
Order Date: June 22, 2020  
Individual/Entity: **Trisha of Orangeburg, Inc.**  
Facility: Oak Ridge Food Mart  
Location: 1560 Loblolly Drive  
Santee, SC 29142  
Mailing Address: 252 Mount Hope Drive  
County: Orangeburg  
Previous Orders: None  
Permit/ID Number: 18205  
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. 61-92.280.41(b)(1)(i)(B)(2012 & Supp. 2019).

Summary: Trisha of Orangeburg (Individual/Entity) owns underground storage tanks (USTs) located in Santee, South Carolina. The Department conducted an inspection on January 24, 2020. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to have a line tightness test conducted and failed to have monthly leak detection conducted.

Action: The Individual/Entity has provided all testing data. The Department has assessed a total civil penalty in the amount of five hundred dollars (\$500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**).

- 5) Order Type and Number: Consent Order 20-0046-UST  
Order Date: June 30, 2020  
Individual/Entity: **Samer Express, LLC**  
Facility: Glenn Road Convenience  
Location: 295 Glenn Road  
West Columbia, SC 29172  
Mailing Address: Same  
County: Lexington  
Previous Orders: None  
Permit/ID Number: 19853  
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann., § 44-2-10 et seq. (2018); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-92.280.20(c)(1)(ii) (2012 & Supp. 2019).

Summary: Samer Express, LLC (Individual/Entity) owns underground storage tanks (USTs) located in Lexington, South Carolina. The Department conducted an inspection on February 12, 2020. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to maintain an overfill prevention device.

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

### **Solid Waste Enforcement**

- 6) Order Type and Number: Consent Order 20-02-SW  
Order Date: May 13, 2019  
Individual/Entity: **Dillon County**  
Facility: Dillon County Class 2 Landfill  
Location: 901 Landfill Road  
Dillon, SC  
Dillon County, SC  
Mailing Address: P.O. Box 449  
Dillon, SC 29536  
County: Dillon  
Previous Orders: None  
Permit/ID Number: 171001-1202  
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991 (Act), Solid Waste Management: Solid Waste Landfills

and Structural Fill Regulation (Regulation), R.61-107.19, Part IV.C.5., Part IV.C.7., Part IV. C.10. and Permit # 171001-1202 (Permit)

Summary: Dillon County (Individual/Entity), is responsible for operating a Class 2 Landfill in Dillon, South Carolina. The Department conducted inspections on July 2, 2019, August 2, 2019, August 12, 2019, September 4, 2019, September 12, 2019, September 16, 2019, October 14, 2019, and November 4, 2019. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act, Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, and the Permit 171001-1202 as follows: failed to ensure that the working face of the landfill is confined to as small an area as equipment can safely and efficiently operate; failed to ensure that all slopes do not exceed thirty-three percent (33%); failed to place cover over exposed waste with at least six (6) inches of clean soil; and failed to effectively control dust, odors, fire hazards, litter and vectors so they do not constitute nuisances or hazards.

Action: The Individual/Entity is required to: cover all exposed waste material with at least six (6) inches of clean earth cover, or other suitable cover material to be approved by the Department; and ensure that all slopes do not exceed thirty-three percent (33%). The Department has assessed a total civil penalty in the amount of two thousand, one hundred dollars (\$2,100.00). The Individual Entity shall pay a civil penalty in the amount of seven hundred dollars (**\$700.00**) and pay a suspended penalty in the amount of one thousand, four hundred dollars (\$1,400.00) should any requirement of the Order is not met.

7) <u>Order Type and Number:</u>	Consent Order 20-18-SW
<u>Order Date:</u>	May 18, 2020
<u>Individual/Entity:</u>	<b>Peek Pavement Marking, LLC</b>
<u>Facility:</u>	Peek Pavement Marking, LLC
<u>Location:</u>	186 Ben Abi Road Spartanburg, SC 29307
<u>Mailing Address:</u>	4600 Peek Industrial Drive Columbus, GA 31309
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	N/A
<u>Violations Cited:</u>	The South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 <u>et seq.</u> (2018 and Supp. 2019), the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation 61-107.19 (2012 and Supp. 2019), and the Solid Waste Management: Used Oil Regulations 61-107.279 (2012 and Supp. 2019).

Summary: Peek Pavement Marking, LLC (Individual/Entity) provides road marking services and is located at 186 Ben Abi Road, Spartanburg, South Carolina. The Department conducted inspections on January 6, 2020, and January 7, 2020. The Individual/Entity violated the South Carolina Solid Waste Policy and Management Act, the Solid Waste Landfills and Structural Fill Regulations, and the Used Oil Regulations as

follows: failed to obtain a permit from the Department prior to operating a Class Two Landfill and failed to label or mark containers used to store used oil with the words “Used Oil.” The Department received photographs and landfill disposal receipts demonstrating all solid waste had been removed from the Site, properly disposed, and the area had been seeded.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of four thousand, five hundred dollars (\$4,500.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand, five hundred dollars (**\$4,500.00**).

8)     Order Type and Number:                     Consent Order 20-12-SW  
          Order Date:                                 May 27, 2020  
          Individual/Entity:                         **3406 Properties, LLC & Cut Above  
  Enterprises, LLC**  
          Facility:                                     Cut Above Enterprises, LLC  
          Location:                                    3406 Rutherford Road Extension  
  Taylors, SC 29687  
          Mailing Address:                         Same  
          County:                                     Greenville  
          Previous Orders:                         None  
          Permit/ID Number:                     N/A  
          Violations Cited:                     Solid Waste Policy and Management Act of  
  1991, S.C. Code Ann. 44-96-440 et seq. (Rev. 2018 & Supp. 2019); Solid Waste  
  Management: Compost and Mulch Production from Land-Clearing Debris, Yard  
  Trimblings, and Organic Residuals, R.61-107.4, Part II.A.3., Part II.B.1.a., Part  
  II.B.2., and Part III.A.1. (2018)

Summary: 3406 Properties, LLC and Cut Above Enterprises, LLC (Individuals/Entities), own a property and operate a landscaping service in Taylors, South Carolina. The Department conducted inspections on October 17, 2019, December 2, 2019, January 17, 2020, March 16, 2020. The Individuals/Entities have violated the Solid Waste Policy and Management Act and the Solid Waste Management: Compost and Mulch Production from Land-Clearing Debris, Yard Trimmings and Organic Residuals Regulation as follows: failed to obtain a permit to operate a compost facility from the Department, in that the amount of material allowed at a facility to be exempt from permit requirement was exceeded and exceeded the amount of unprocessed material allowed on site without meeting required buffer specifications.

Action: The Individual/Entities are required to: dispose of the waste at a permitted solid waste facility; provide the Department with disposal receipts; obtain a Compost/Mulch Production Permit if the amount of landscaping debris on the property will exceed 80 cubic yards. The Department assessed a total civil penalty in the amount of one thousand, one hundred dollars (\$1,100.00). The Individuals/Entities shall pay a civil penalty in the amount of one thousand, one hundred dollars (**\$1,100.00**).

9)      Order Type and Number:                      Consent Order 20-14-SW  
Order Date:    May 27, 2020  
Individual/Entity:                                      **Carolina Plastics**  
Facility:     Carolina Plastics  
Location:     882 Academy Road  
   Long Creek, SC  
Mailing Address:                                        105 Warehouse Road  
   Seneca, SC 29672  
  
County:    Oconee  
Previous Orders:                                        None  
Permit/ID Number:                                    N/A  
Violations Cited:                                      South Carolina Solid Waste Policy and  
Management Act of 1991, S.C. Code Ann. §§ 44-96-290(A) (2018 & Supp.  
2018) (Act) and the Solid Waste Management: Solid Waste Landfills and  
Structural Fill Regulation, R.61-107.19, Part V.A.258.1.c. (2002 and Supp. 2016)  
(Regulation)

Summary: Carolina Plastics (Individual/Entity), located in Long Creek, South Carolina, is responsible for operating a Class Three landfill without a permit from the Department. Inspections were conducted on October 4, 2019 and December 5, 2019. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation as follows: operated a Class Three landfill without a permit issued by the Department.

Action: The Individual/Entity is required to: remove all solid waste debris from the Site; dispose of it at a permitted solid waste management facility; and submit disposal receipts. The Department has assessed a total civil penalty in the amount of three thousand dollars (\$3,000.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**) and pay a suspended penalty in the amount of two thousand, five hundred dollars (\$2,500.00) should any requirement of the Order not be met.

10)      Order Type and Number:                      Consent Order 20-13-SW  
Order Date:    June 11, 2020  
Individual/Entity:                                      **Earl Williams**  
Facility:     TMS # 105-32  
Location:     1641 Sandy Run Creek Road  
   Silverstreet, SC 29145  
Mailing Address:                                        1877 Williams Road  
   Silverstreet, SC 29145  
  
County:    Newberry  
Previous Orders:                                        None  
Permit/ID Number:                                    N/A

Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 et seq. (2002 & Supp. 2018); Solid Waste Management: Waste Tires, R.61-107.3 (2015) Part III.A.1.

Summary: Earl Williams (Individual/Entity), owns property in Silverstreet, South Carolina. The Department conducted inspections on January 28, 2020, February 18, 2020, and April 3, 2020. The Individual/Entity violated the South Carolina Solid Waste Policy and Management Act and the Solid Waste Management: Waste Tires Regulation as follows: operated a waste tire collection facility without a Department issued permit.

Action: The Individual/Entity is required to: remove all tires from the Site and submit disposal receipts as proof of proper disposal. The Department has assessed a total civil penalty in the amount of fifteen thousand, seven hundred fifty dollars (\$15,750.00). The Individual/Entity shall pay a **suspended penalty** in the amount of fifteen thousand, seven hundred fifty dollars (**\$15,750.00**) should any requirement of the Order not be met.

11) Order Type and Number: Consent Order 20-16-SW  
Order Date: June 19, 2020  
Individual/Entity: **SAXON Development Venture, LLC and Henderson Brandt & Vieth PA C/O**  
Facility: SAXON Development, Property  
Location: 11 Front Street  
Spartanburg, SC  
Mailing Address: 360 East Henry Street, Suite 101  
Spartanburg, SC 29302  
County: Spartanburg  
Previous Orders: None  
Permit/ID Number: N/A  
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-290(A) (2018 & Supp. 2018) (Act) and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part II.B.1. (2016) (Regulation)

Summary: SAXON Development Venture, LLC and Henderson Brandt & Vieth PA C/O (Individual/Entity), located in Spartanburg, South Carolina, is responsible for operating a structural fill without a permit. The Department conducted inspections on August 8, 2019, August 9, 2019 and August 14, 2019. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and Solid Waste Management; Solid Waste Landfills and Structural Fill Regulation as follows: operated a structural fill without a permit issued by the Department.

Action: The Individual/Entity is required to: cease disposal of solid waste debris onto the Property and dispose of any remaining solid waste debris at a permitted solid waste management facility; remove loose solid waste debris from the dam/land bridge, dispose of it at a permitted solid waste management facility and submit disposal receipts to the

Department; complete closure activities to include, applying a two-foot thick final earth cover and seed the finished surface area with native grasses or other suitable cover, recording with the Register of Deeds a notation in the record of ownership of the property that will, in perpetuity, notify any potential purchaser of the property that the land, or a portion thereof, has been filled with solid waste debris; remove all solid waste material not compacted during closure activities, dispose of it at a permitted solid waste management facility and submit disposal receipts. The Department has assessed a total civil penalty in the amount ten thousand, two hundred dollars (\$10,200.00). The Individual/Entity shall a civil penalty in the amount of two thousand, seven hundred dollars (**\$2,700.00**) and pay a suspended penalty in the amount of seven thousand, five hundred dollars (\$7,500.00) should any requirement of the Order is not met.

12)    Order Type and Number:                   Consent Order 20-17-SW  
          Order Date:                               June 19, 2020  
          Individual/Entity:                    **Newberry County**  
          Facility:                               Newberry County Transfer Station  
          Location:                              11374 SC-34  
  Newberry, SC 29108  
  
          Mailing Address:                   Same  
          County:                                Newberry  
          Previous Orders:                    None  
          Permit/ID Number:                361001-6001  
          Violations Cited:                South Carolina Solid Waste Policy and  
  Management Act of 1991 (Act), Solid Waste Management: Transfer of Solid  
  Waste (Regulation), R.61-107.7, Part C.2., Part E.10., Part F.2., Part F.7., and  
  Permit # 361001-6001 (Permit)

Summary: Newberry County (Individual/Entity) is responsible for operating a Transfer Station in Newberry, South Carolina. The Department conducted inspections on February 4, 2020, and March 4, 2020. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act, Solid Waste Management: Transfer of Solid Waste Regulation and Permit 361001-6001 as follows: failed to contain spillage or leakage of solid waste on the storage site; failed to contain all waste in the tipping area; failed to maintain a neat and orderly appearance; and failed to remove all putrescible waste within twenty-four (24) hours of receipt or store waste in a manner to promote vector and odor control.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of two thousand, nine hundred dollars (\$2,900.00). The Individual Entity shall pay a civil penalty in the amount of two thousand, nine hundred dollars (**\$2,900.00**).





Mailing Address: Same  
County: Newberry  
Previous Orders: None  
Permit/ID Number: SCD 006 540 983  
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: Valmont Composite Structures (Individual/Entity) specializes in manufacturing lighting poles at its facility located in Newberry, South Carolina. The Department conducted an inspection on December 5, 2019. The Individual/Entity has violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to accumulate non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate; failed to ensure that containers holding hazardous waste were closed at all times during the accumulation, except when adding, removing, or consolidating waste, or when temporary venting of a container is necessary; failed to mark or label its containers with the words “Hazardous Waste” and an indication of the hazards of the content; failed to mark the date upon which each period of accumulation begins; failed to submit a quick reference guide to the local emergency responders; failed to manage lamps in a way that prevents release of any universal waste or component of a universal waste to the environment; and failed to demonstrate the length of time that the universal waste had been accumulated from the date it became a waste or received.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of four thousand dollars (\$4,000.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand dollars (**\$4,000.00**).

15) Order Type and Number: Consent Order 20-04-HW  
Order Date: June 30, 2020  
Individual/Entity: **Palmetto Plating Company, Inc.**  
Facility: Palmetto Plating Company, Inc.  
Location: 510 Saco Lowell Road  
Easley, SC 29641  
Mailing Address: Same  
County: Pickens  
Previous Orders: None  
Permit/ID Number: SCR 000 004 739  
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: Palmetto Plating Company, Inc. (Individual/Entity) specializes in providing metal finishing services at its facility located in Easley, South Carolina. The Department conducted an inspection on September 13, 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 close containers of hazardous during accumulation, except when adding or removing waste; failed to label containers with the words “Hazardous Waste” and an indication of the hazards of the contents; and failed to remove excess hazardous waste from satellite accumulation within three (3) consecutive calendar days, and date the container holding the excess with the date the excess amount began accumulating.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of three thousand, one hundred dollars (\$3,100.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand, one hundred dollars (**\$3,100.00**).

### **Infectious Waste Enforcement**

16) <u>Order Type and Number:</u>	Consent Order 20-02-IW
<u>Order Date:</u>	June 10, 2020
<u>Individual/Entity:</u>	<b>Medical University of South Carolina</b>
<u>Facility:</u>	Medical University of South Carolina
<u>Location:</u>	171 Ashley Avenue Charleston, SC 29425
<u>Mailing Address:</u>	Same
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	SC10-0031G
<u>Violations Cited:</u>	The South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2010) (SCIWMR), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-10 et seq. (2002).

Summary: Medical University of South Carolina (Individual/Entity) is a hospital located in Charleston, South Carolina. The Department received a complaint with documentation and photographs on August 12, 2019. The Individual/Entity has violated the Infectious Waste Management Regulations as follows: failed to manage infectious waste in a manner which prevents exposure to the public or release to the environment; failed to offer infectious waste for offsite transport only to a transporter who maintains a current registration with the Department; failed to segregate infectious waste from solid waste as close to the point of generation as practical to avoid commingling of the waste; failed to assure that infectious waste is packaged in accordance with the requirements and to prevent any release of infectious waste from its packaging before storing, transporting, or offering for transport offsite; failed to use plastic bags of red or orange color and have

sufficient strength to prevent tearing; failed to contain infectious waste in containers that are appropriate for the type and quantity of waste and must be compatible with selected storage, transportation, and treatment processes; failed to treat infectious waste prior to disposal; and , failed to report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases of infectious waste.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of fourteen thousand, eight hundred dollars (\$14,800.00). The Individual/Entity shall pay a civil penalty in the amount of fourteen thousand, eight hundred dollars (**\$14,800.00**).

17) Order Type and Number: Consent Order 20-01-IW  
Order Date: June 19, 2020  
Individual/Entity: **Ashley River Tower**  
Facility: Ashley River Tower  
Location: 25 Courtenay Drive  
Charleston, SC 29425  
Mailing Address: 316 Courtenay Drive  
Charleston, SC 29425  
County: Charleston  
Previous Orders: None  
Permit/ID Number: SC10-2208G  
Violations Cited: The South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2010) (SCIWMR), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-10 et seq. (2002).

Summary: Ashley River Tower (Individual/Entity) is a hospital located at 25 Courtenay Dr., Charleston, South Carolina. The Department received a complaint with documentation and photographs on August 12, 2019. The Individual/Entity has violated the Infectious Waste Management Regulations as follows: failed to manage infectious waste in a manner which prevents exposure to the public or release to the environment; failed to offer infectious waste for offsite transport only to a transporter who maintains a current registration with the Department; failed to segregate infectious waste from solid waste as close to the point of generation as practical to avoid commingling of the waste; failed to assure that infectious waste is packaged in accordance with the requirements and to prevent any release of infectious waste from its packaging before storing, transporting, or offering for transport offsite; failed to use plastic bags of red or orange color and have sufficient strength to prevent tearing; failed to contain infectious waste in containers that are appropriate for the type and quantity of waste and must be compatible with selected storage, transportation, and treatment processes; failed to treat infectious waste prior to disposal; and , failed to report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases of infectious waste.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of fourteen thousand, eight hundred dollars (\$14,800.00). The Individual/Entity shall pay a civil penalty in the amount of fourteen thousand, eight hundred dollars (**\$14,800.00**).

## BUREAU OF WATER

### Drinking Water Enforcement

18) Order Type and Number: Consent Order 20-015-DW  
Order Date: May 6, 2020  
Individual/Entity: **Shady Acres Water Co.**  
Facility: Shady Acres  
Location: 178 Hunter Drive  
Chapin, SC 29036  
Mailing Address: Same  
County: Lexington  
Previous Orders: 19-004-DW (\$4,000.00)  
Permit/ID Number: 3250060  
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)

Summary: Shady Acres Water Co. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On March 13, 2020, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS tested present for total coliform and E. coli, which resulted in a violation of the maximum contaminant level (MCL) for E. coli.

Action: The Individual/Entity is required to: submit a corrective action plan to include proposed steps to address the MCL violation. The Department has assessed a total civil penalty in the amount of eight thousand dollars (\$8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**\$8,000.00**) should any requirement of the Order not be met.

19) Order Type and Number: Consent Order 20-016-DW  
Order Date: May 18, 2020  
Individual/Entity: **Gerardo V. Contreras, Individually and d.b.a. L&D Apartments**  
Facility: L&D Apartments  
Location: 118 Dean Road  
Saluda, SC 29138  
Mailing Address: Same

County: Saluda  
Previous Orders: None  
Permit/ID Number: 4170300  
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)

Summary: Gerardo V. Contreras, Individually and d.b.a. L&D Apartments (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On April 2, 2020, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS tested present for total coliform and E. coli, which resulted in a violation of the maximum contaminant level (MCL) for E. coli.

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

20) Order Type and Number: Consent Order 20-017-DW  
Order Date: May 18, 2020  
Individual/Entity: **The City of Belton**  
Facility: The City of Belton  
Location: 306 Anderson Street  
Belton, SC 29627  
Mailing Address: Same  
County: Anderson  
Previous Orders: None  
Permit/ID Number: 0410004  
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: The City of Belton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On February 21, 2020, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS exceeded the maximum contaminant level (MCL) for total trihalomethanes.

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

## Water Pollution Enforcement

21)    Order Type and Number:                    Consent Order 20-012-W  
      Order Date:                                May 5, 2020  
      Individual/Entity:                        **Aiken County PSA**  
      Facility:                                 Horse Creek WWTF  
      Location:                                 70 PSA Road  
  Beech Island, SC 29842  
  
      Mailing Address:                        Same  
      County:                                 Aiken  
      Previous Orders:                        None  
      Permit/ID Number:                     NPDES Permit SC0024457  
      Violations Cited:                     Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2016), Water Pollution Control Permits, 3 S.C. Code Ann Regs. 61-9.122.41(a) (2011), and Part III. A of NPDES Permit SC0024457

Summary: Aiken County PSA/Horse Creek WWTF (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Aiken County, South Carolina. On November 27, 2019, a Notice of Violation was issued as a result of a failure to comply with certain permitted effluent limitations from April 2019 through October 2019 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 permitted effluent limitations for E. Coli.

Action: The Individual/Entity is required to: submit notification of the completion for all corrective actions and demonstrate a six-month compliance confirmation monitoring period once corrective actions are complete. The Department has assessed a total civil penalty in the amount of five thousand, forty dollars (\$5,040.00). The Individual/Entity shall pay a civil penalty of five thousand, forty dollars (**\$5,040.00**).

22)    Order Type and Number:                    Consent Order 20-013-W  
      Order Date:                                May 6, 2020  
      Individual/Entity:                        **Arabella Farm Event Center, LLC**  
      Facility:                                 Arabella Farm Event Center  
      Location:                                 125 Buck Ridge Road  
  Sunset, SC 29685  
  
      Mailing Address:                        Same  
      County:                                 Pickens  
      Previous Orders:                        None  
      Permit/ID Number:                     N/A  
      Violations Cited:                     Pollution Control Act, S.C Code Ann § 48-1-90(A) (Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.26 (b) 14 (x) (2011).

Summary: Arabella Farm Event Center, LLC (Individual/Entity) is responsible for land disturbing activity on property located in Pickens County, South Carolina. On August 20, 2019, a Warning Notice was issued as a result of failure to maintain sediment and erosion controls and unauthorized discharges of sediment associated with land disturbing activity. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: discharged sediment into the environment, including waters of the state, in a manner other than in compliance with a permit issued by the Department, and initiated land disturbing activities prior to obtaining a permit from the Department.

Action: The Individual/Entity is required to: complete the process of obtaining permit coverage from Pickens County; submit a revised SWPPP; submit a stabilization plan for the pasture area; submit an engineer's report stating the site is in compliance with the approved SWPPP; submit an assessment plan addressing impacts of sediment to specified unnamed tributaries; and submit an assessment report and a list of remediation activities. The Department has assessed a total civil penalty in the amount of six thousand dollars (\$6,000.00). The Individual/Entity shall pay a civil penalty in the amount of six thousand dollars (**\$6,000.00**).

23) <u>Order Type and Number:</u>	Consent Order 20-014-W
<u>Order Date:</u>	May 12, 2020
<u>Individual/Entity:</u>	<b>City of Lancaster</b>
<u>Facility:</u>	Catawba River WWTF
<u>Location:</u>	Lockwood Lane Lancaster, SC 29721
<u>Mailing Address:</u>	P.O. Box 1149 Lancaster, SC 29721
<u>County:</u>	Lancaster
<u>Previous Orders:</u>	18-017-W (\$3,400.00)
<u>Permit/ID Number:</u>	SC0046892
<u>Violations Cited:</u>	Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2019), and Water Pollution Control Permits Regulation, S.C. Code Ann. Regs. 61-9.122.41(a) (2011), and NPDES Permit SC0046892

Summary: City of Lancaster/Catawba River WWTF (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Lancaster County, South Carolina. On March 2, 2020, a Notice of Violation was issued as a result of E.coli violations as reported on discharge monitoring reports. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the permitted effluent limitations for E.coli of its National Pollutant Discharge Elimination System permit.

Action: The Individual/Entity is required to: submit a CAP and a schedule of implementation to address the deficiencies. The Department has assessed a total civil penalty in the amount of four thousand, two hundred dollars (\$4,200.00). The



Individual/Entity shall pay a civil penalty in the amount of four thousand, two hundred dollars (**\$4,200.00**).

24) Order Type and Number: Consent Order 20-015-W  
Order Date: May 18, 2020  
Individual/Entity: **Total Environmental Solutions, Inc.**  
Facility: TESI Lockhart WWTF  
Location: 400 River Street  
Union County, SC  
Mailing Address: P.O. Box 14059  
Baton Rouge, LA 70898  
County: Union  
Previous Orders: None  
Permit/ID Number: SCG570019  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (a) (1) and (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (e) (1) (2011); Standards for Wastewater Facility Construction, S.C. Code Ann. Regs. 61-67.100 (E) (7) and 300 (A) (1) (2015).

Summary: Total Environmental Solutions, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Union County, South Carolina. On June 7, 2019, a notice of unsatisfactory inspection was issued as a result of deficiencies observed by Department staff during an inspection. The Individual/Entity has violated the Pollution Control Act, Water Pollution Control Permit, and Standards for Wastewater Facility Construction Regulations as follows: failed to properly operate and maintain the WWTF and constructed and placed into operation a temporary piping system without first obtaining the appropriate permits from the Department.

Action: The Individual/Entity is required to: remove the temporary piping and install a new gear box. The Department has assessed a total civil penalty in the amount of two thousand, one hundred dollars (\$2,100.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand one hundred dollars (**\$2,100.00**).

25) Order Type and Number: Consent Order 20-016-W  
Order Date: May 21, 2020  
Individual/Entity: **Blue Granite Water Company**  
Facility: Friarsgate WWTF  
Location: off Irmo Drive  
Lexington County, SC  
Mailing Address: 130 South Main Street, Suite 800  
Greenville, SC 29601  
County: Lexington  
Previous Orders: 16-039-W (\$78,940.00);

Permit/ID Number: 17-060-W (\$12,000.00)  
NPDES Permit SC0036137  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-90 (A) (1) and 110 (d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.505.41 (a) (2011).

Summary: Blue Granite Water Company (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Watergate wastewater treatment facility (WWTF) located in Lexington County, South Carolina. On December 13, 2019, Department staff observed untreated wastewater being discharged into waters of the state from manholes located in the Individual/Entity's wastewater collection system (WWCS) and observed sludge and rainwater being discharged from a partially dismantled temporary equalization basin into waters of the state. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to properly dispose of sludge from the WWTF and discharged untreated wastewater and sludge into the environment, including waters of the state, in a manner not in compliance with a permit issued by the Department.

Action: The Individual/Entity is required to: submit a detailed plan to prevent unauthorized discharges of wastewater and sludge from any WWTF owned by the Individual/Entity during decommissioning. The Department has assessed a total civil penalty in the amount of fifty-two thousand five hundred sixty-two dollars and fifty cents (\$52,562.50). The Individual/Entity shall pay a civil penalty in the amount of fifty-two thousand five hundred sixty-two dollars and fifty cents (**\$52,562.50**).

26) Order Type and Number: Consent Order 20-017-W  
Order Date: June 11, 2020  
Individual/Entity: **Town of Pageland**  
Facility: Northwest WWTF  
Location: Near SC HWY 207, Pageland  
Chesterfield County, SC  
Mailing Address: 126 North Pearl Street  
Pageland, SC 29728  
County: Chesterfield  
Previous Orders: None  
Permit/ID Number: NPDES Permit SC0021504  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The Town of Pageland (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Chesterfield County, South Carolina. On October 22, 2019, a Notice of Violation was issued as a result of Escherichia coli (E. coli) violations reported to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control

Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System Permit for E. coli.

Action: The Individual/Entity is required to: eliminate the discharge from the WWTF by connection to its Southeast WWTF and continue to operate under the current NPDES permit until the discharge is eliminated. The Department has assessed a total civil penalty in the amount of two thousand, eight hundred dollars (\$2,800.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand, eight hundred dollars (**\$2,800.00**).

27) Order Type and Number: Consent Order 20-018-W  
Order Date: June 15, 2020  
Individual/Entity: **Town of Norway**  
Facility: Town of Norway WWTF  
Location: 710 Winchester Avenue  
Norway, SC 29113  
Mailing Address: P.O. Box 127  
Norway, SC 29113  
County: Orangeburg County  
Previous Orders: 19-050-W (\$1,000.00);  
19-069-W (\$6,800.00)  
Permit/ID Number: NPDES Permit SC0045993  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.21(d) (2011).

Summary: The Town of Norway (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Orangeburg County, South Carolina. On July 11, 2019, a Notice of Violation was issued as a result of failure to comply with the reporting requirements of its National Pollutant Discharge Elimination System Permit (NPDES Permit). The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulations as follows: failed to comply with the effluent discharge limits of its NPDES Permit for CTOX and pH.

Action: The Individual/Entity is required to: continue to implement the approved corrective action plan; complete quarterly CTOX analysis; and perform a Toxicity Identification Evaluation/Toxicity Reduction Evaluation if there is a CTOX failure observed during the designated monitoring period. The Department has assessed a total civil penalty in the amount of six thousand, three hundred dollars (\$6,300.00). The Individual/Entity shall pay a civil penalty in the amount of six thousand three hundred dollars (**\$6,300.00**).

28) Order Type and Number: Consent Order 20-019-W  
Order Date: June 15, 2020  
Individual/Entity: **Town of Lamar**  
Facility: Lamar WWTF  
Location: Secondary Road #449  
Darlington County, SC  
Mailing Address: P.O. Box 267  
Lamar, SC 29069  
County: Darlington  
Previous Orders: 19-042-W (\$2,800.00)  
Permit/ID Number: NPDES Permit SC0043702  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d), 48-1-130 & 330, (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (e) (1) (2011).

Summary: The Town of Lamar (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Darlington County, South Carolina. On January 17, 2020, a letter was issued as a result of deficiencies observed at the WWTF during a site visit on January 13, 2020. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to properly operate and maintain the WWTF.

Action: The Individual/Entity is required to: complete the installation of effluent pumps, flow meter, and indoor and outdoor lighting; paint and install a new door on the effluent pump house; upgrade the electrical components at the WWTF; employ an operator of appropriate grade; complete gravity sewer video and smoke testing; and submit to the Department a report on the video and smoke testing with a prioritized list of necessary repairs with a schedule for completion. The Department has assessed a total civil penalty in the amount of fourteen thousand, four hundred dollars (\$14,400.00). The Individual/Entity shall pay a civil penalty in the amount of fourteen thousand four hundred dollars (**\$14,400.00**).

## **BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

### **Food Safety Enforcement**

29) Order Type and Number: Consent Order 2020-206-02-015  
Order Date: May 1, 2020  
Individual/Entity: **Rick Erwin's Deli & Market**  
Facility: Rick Erwin's Deli & Market  
Location: 101 West Camperdown Way, Suite 100  
Greenville, SC 29601  
Mailing Address: 40 West Broad Street, Suite 301

Greenville, SC 29601  
County: Greenville  
Previous Orders: 2016-206-02-021 (\$1,200.00);  
2018-206-02-059 (\$800.00);  
2019-206-02-045 (\$1,000.00)  
Permit Number: 23-206-10665  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Rick Erwin's Deli & Market (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on February 5, 2020. 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. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

30) Order Type and Number: Consent Order 2020-206-02-017  
Order Date: May 1, 2020  
Individual/Entity: **No 1 China**  
Facility: No 1 China  
Location: 505 North Main Street, Suite 3  
Greenville, SC 29601  
Mailing Address: Same  
County: Greenville  
Previous Orders: None  
Permit Number: 23-206-09751  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: No 1 China (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on March 6, 2019, October 22, 2019, and February 21, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

31) Order Type and Number: Consent Order 2020-206-04-013  
Order Date: May 1, 2020  
Individual/Entity: **Boulevard Express**  
Facility: Boulevard Express  
Location: 331 Cottingham Boulevard South  
Bennettsville, SC 29512  
Mailing Address: 1902 Sherbrooke Circle  
Laurinburg, NC 28352  
County: Marlboro  
Previous Orders: None  
Permit Number: 34-206-00684  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Boulevard Express (Individual/Entity) is a convenience store located in Bennettsville, South Carolina. The Department conducted inspections on December 18, 2018, August 20, 2019, and January 2, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

32) Order Type and Number: Consent Order 2020-206-04-017  
Order Date: May 1, 2020  
Individual/Entity: **Miyabi Jr. Express**  
Facility: Miyabi Jr. Express  
Location: 250 North Beltline Drive, Suite 20  
Florence, SC 29501  
Mailing Address: Same  
County: Florence  
Previous Orders: None  
Permit Number: 21-206-02842  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Miyabi Jr. Express (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on March 29, 2018, February 19, 2019, and January 10, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be: frozen and stored at a temperature of -4 degrees F (-20 degrees C) or below for a minimum of one hundred sixty-eight (168) hours (seven (7) days) in a freezer; frozen at -31 degrees F (-35 degrees C) or below until solid and stored at -31

degrees F (-35 degrees C) or below for a minimum of fifteen (15) hours; or frozen -31 degrees F (-35 degrees C) or below until solid and stored at -4 degrees F (-20 degrees C) or below for a minimum of twenty-four (24) hours.

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

33)	<u>Order Type and Number:</u>	Consent Order 2020-206-06-013
	<u>Order Date:</u>	May 1, 2020
	<u>Individual/Entity:</u>	<b>Creek Ratz</b>
	<u>Facility:</u>	Creek Ratz
	<u>Location:</u>	4065 Highway 17 Business Murrells Inlet, SC 29576
	<u>Mailing Address:</u>	P.O. Box 2787 Murrells Inlet, SC 29576
	<u>County:</u>	Georgetown
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	22-206-08318
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Creek Ratz (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted inspections on January 16, 2019, July 17, 2019, October 1, 2019, and February 3, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Department has assessed a total civil penalty in the amount of one thousand, three hundred fifty dollars (\$1,350.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, three hundred fifty dollars (**\$1,350.00**).

34)	<u>Order Type and Number:</u>	Consent Order 2020-206-08-003
	<u>Order Date:</u>	May 1, 2020
	<u>Individual/Entity:</u>	<b>Parker's #58</b>
	<u>Facility:</u>	Parker's #58
	<u>Location:</u>	12 Savannah Highway Beaufort, SC 29906
	<u>Mailing Address:</u>	17 West McDonough Street Savannah, GA 31401
	<u>County:</u>	Beaufort

Previous Orders: 2019-206-08-001 (\$1,600.00)  
Permit Number: 07-206-02731  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Parker's #58 (Individual/Entity) is a convenience store located in Beaufort, South Carolina. The Department conducted an inspection on February 14, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

35) Order Type and Number: Consent Order 2020-206-02-008  
Order Date: May 4, 2020  
Individual/Entity: **Jersey Mikes**  
Facility: Jersey Mikes  
Location: 1311 A West Wade Hampton Boulevard  
Greer, SC 29651  
Mailing Address: 610 Pettigru Street  
Greenville, SC 29601  
County: Greenville  
Previous Orders: None  
Permit Number: 23-206-10023  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jersey Mikes (Individual/Entity) is a restaurant located in Greer, South Carolina. The Department conducted an inspection on February 3, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: obscured, covered, defaced, relocated, or removed the grade decal that was posted by the Department.

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



36)	<u>Order Type and Number:</u> <u>Order Date:</u> <u>Individual/Entity:</u> <u>Facility:</u> <u>Location:</u>  <u>Mailing Address:</u>  <u>County:</u> <u>Previous Orders:</u> <u>Permit Number:</u> <u>Violations Cited:</u>	Consent Order 2020-206-02-018 June 8, 2020 <b>Up on the Roof</b> Up on the Roof 250 Riverplace, Suite 800 Greenville, SC 29601 812 Hillary Street New Orleans, LA 70118 Greenville None 23-206-11555 S.C. Code Ann. Regs. 61-25
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Summary: Up on the Roof (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on October 11, 2018, June 10, 2019, and February 9, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

37)	<u>Order Type and Number:</u> <u>Order Date:</u> <u>Individual/Entity:</u> <u>Facility:</u> <u>Location:</u>  <u>Mailing Address:</u> <u>County:</u> <u>Previous Orders:</u>  <u>Permit Number:</u> <u>Violations Cited:</u>	Consent Order 2020-206-06-014 June 11, 2020 <b>Landmark Gazebo</b> Landmark Gazebo 1501 South Ocean Boulevard Myrtle Beach, SC 29577 Same Horry 2017-206-06-123 (\$800.00); 2019-206-06-002 (\$800.00); 2019-206-06-018 (\$200.00); 2019-206-06-083 (\$250.00) 26-206-06766 S.C. Code Ann. Regs. 61-25
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Summary: Landmark Gazebo (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on May 20, 2019, October 2, 2019, and February 11, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

38) Order Type and Number: Consent Order 2020-206-02-098  
Order Date: June 16, 2020  
Individual/Entity: **Aramark/Governor's School for the Arts**  
Facility: Aramark/Governor's School for the Arts  
Location: 15 University Ridge  
Greenville, SC 29601  
Mailing Address: Same  
County: Greenville  
Previous Orders: None  
Permit Number: 23-206-07425  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Aramark/Governor's School for the Arts (Individual/Entity) operates a cafeteria located in Greenville, South Carolina. The Department conducted inspections on October 2, 2017, September 11, 2018, and September 5, 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. The Department has assessed a total civil penalty in the amount of eight hundred dollars (\$800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars (**\$800.00**).

39) Order Type and Number: Consent Order 2020-206-03-013  
Order Date: June 16, 2020  
Individual/Entity: **C Mart**  
Facility: C Mart  
Location: 658 Two Notch Road  
Lexington, SC 29073  
Mailing Address: Same  
County: Lexington  
Previous Orders: 2016-206-03-042 (\$1,200.00)  
Permit Number: 32-206-06383  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: C Mart (Individual/Entity) is a convenience store located in Lexington, South Carolina. The Department conducted inspections on March 5, 2018, February 19, 2019, February 12, 2020, February 19, 2020, and February 27, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods; failed to ensure that each handwashing sink or group of two (2) adjacent handwashing sinks was provided with a supply of hand cleaning liquid, powder, or bar soap; failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks; and failed to 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. The Department has assessed a total civil penalty in the amount of three thousand dollars (\$3,000.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand dollars (**\$3,000.00**).

40) <u>Order Type and Number:</u>	Consent Order 2020-206-03-006
<u>Order Date:</u>	June 22, 2020
<u>Individual/Entity:</u>	<b>WildWing Cafe</b>
<u>Facility:</u>	Wild Wing Cafe
<u>Location:</u>	480 Town Center Place, Suite 2 Greenville, SC 29601
<u>Mailing Address:</u>	205 Regency Executive Drive Place, Suite 2 Charlotte, NC 28217
<u>County:</u>	Richland
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	40-206-07921
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Wind Wing Cafe (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on January 16, 2020, January 24, 2020, January 30, 2020, January 31, 2020, and February 7, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to convey sewage to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

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

## On Site Wastewater Enforcement

41)    Order Type and Number:                    Administrative Order 20-38-OSWW  
       Order Date:                                    May 1, 2020  
       Individual/Entity:                         **Gary Hart and Sheila Hart**  
       Facility:                                        Gary Hart and Sheila Hart  
       Location:                                        3757 Rum Gully Road  
    Islandton, SC 29929  
       Mailing Address:                            3845 Rum Gully Road  
    Islandton, SC 29929  
       County:                                         Colleton  
       Previous Orders:                             None  
       Permit Number:                             None  
       Violations Cited:                            S.C. Code Ann. Regs. 61-56

Summary: Gary Hart and Sheila Hart (Individual/Entity) own property located in Islandton, South Carolina. On August 7, 2019, the Department investigated and observed a building being occupied for more than two hours a day without a Department approved Onsite Wastewater (OSWW) system. The Individual/Entity has violated the South Carolina Onsite Wastewater Systems Regulation as follows: failed to ensure any building occupied for more than two hours per day is connected to a Department approved OSWW system.

Action: The Individual/Entity is required to: connect to a Department approved OSWW system within five (5) days; or immediately vacate the residence until it is connected to a Department approved OSWW system. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

42)    Order Type and Number:                    Administrative Order 20-21-OSWW  
       Order Date:                                    May 12, 2020  
       Individual/Entity:                         **Carol Hammonds**  
       Facility:                                        Carol Hammonds  
       Location:                                        1685 Pleasant Church Road  
    Cheraw, SC 29520  
       Mailing Address:                            1410 W. Boulevard  
    Chesterfield, SC 29709  
       County:                                         Chesterfield  
       Previous Orders:                             None  
       Permit Number:                             None  
       Violations Cited:                            S.C. Code Ann. Regs. 61-56

Summary: Carol Hammonds (Individual/Entity) owns property located in Cheraw, South Carolina. On February 19, 2020, the Department investigated 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 pumping and 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

43) <u>Order Type and Number:</u>	Administrative Order 20-26-OSWW
<u>Order Date:</u>	May 12, 2020
<u>Individual/Entity:</u>	<b>Shanaya Hammond</b>
<u>Facility:</u>	Shanaya Hammond
<u>Location:</u>	1352 Leisure Drive Summerville, SC 29486
<u>Mailing Address:</u>	Same
<u>County:</u>	Berkeley
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Shanaya Hammond (Individual/Entity) owns property located in Summerville, South Carolina. On February 26, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

44) Order Type and Number: Administrative Order 20-35-OSWW  
Order Date: May 12, 2020  
Individual/Entity: **Charles Trihey**  
Facility: Charles Trihey  
Location: 550 Davenport Road  
Newberry, SC 29108  
Mailing Address: 158 Davenport Road  
Newberry, SC 29108  
County: Newberry  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Charles Trihey (Individual/Entity) owns property located in Newberry, South Carolina. On March 12, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

45) Order Type and Number: Administrative Order 20-36-OSWW  
Order Date: May 12, 2020  
Individual/Entity: **Liberty Park Place, LLC**  
Facility: Liberty Park Place, LLC  
Location: 255 Avis Lane  
Liberty, SC 29657  
Mailing Address: 3504 Hwy 153 #274  
Greenville, SC 29611  
County: Anderson  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Liberty Park Place, LLC (Individual/Entity) owns property located in Liberty, South Carolina. On March 6, 2020, the Department investigated 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. The Department has assessed a total civil penalty of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

46)	<u>Order Type and Number:</u>	Administrative Order 20-45-OSWW
	<u>Order Date:</u>	May 12, 2020
	<u>Individual/Entity:</u>	<b>Deborah Christopher</b>
	<u>Facility:</u>	Deborah Christopher
	<u>Location:</u>	120 Frankie Lane Ladson, SC 29456
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Berkeley
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Deborah Christopher (Individual/Entity) owns property located in Ladson, South Carolina. On March 24, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

47)	<u>Order Type and Number:</u>	Administrative Order 20-53-OSWW
	<u>Order Date:</u>	May 12, 2020
	<u>Individual/Entity:</u>	<b>William Kirkland and Wanda Ahl</b>
	<u>Facility:</u>	William Kirkland and Wanda Ahl
	<u>Location:</u>	88 Paint Horse Lane Walterboro, SC 29488

Mailing Address: 1260 Jones Swamp Road  
Walterboro, SC 29488  
County: Colleton  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: William Kirkland and Wanda Ahl (Individual/Entity) own property located in Walterboro, South Carolina. On February 25, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

48) Order Type and Number: Administrative Order 20-54-OSWW  
Order Date: May 12, 2020  
Individual/Entity: **Rachel Mims**  
Facility: Rachel Mims  
Location: 24438 Augusta Highway  
Cottageville, SC 29435  
Mailing Address: Same  
County: Colleton  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Rachel Mims (Individual/Entity) owns property located in Cottageville, South Carolina. On January 10, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

49) Order Type and Number: Administrative Order 20-43-OSWW  
Order Date: June 16, 2020  
Individual/Entity: **Kimberly Vause and Terry Vause**  
Facility: Kimberly Vause and Terry Vause  
Location: 231 Laurel Lane  
Florence, SC 29506  
Mailing Address: 2509 Parklane Drive  
Florence, SC 29501  
County: Florence  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Kimberly Vause and Terry Vause (Individual/Entity) own property located in Florence, South Carolina. On February 26, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

50) Order Type and Number: Administrative Order 20-55-OSWW  
Order Date: June 16, 2020  
Individual/Entity: **Zachary Lesknic**  
Facility: Zachary Lesknic  
Location: 130 Oglesby Lane  
Cowpens, SC 29330  
Mailing Address: 455 Sunny Slope  
Cowpens, SC 29330  
County: Spartanburg  
Previous Orders: None

Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Zachary Leskanic (Individual/Entity) owns property located in Cowpens, South Carolina. On March 18, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

51) Order Type and Number: Administrative Order 20-63-OSWW  
Order Date: June 16, 2020  
Individual/Entity: **Malcolm Squires**  
Facility: Malcolm Squires  
Location: 362 Jackson Road  
Jackson, SC 29831  
Mailing Address: 201 Rickenbaker Street  
Jackson, SC 29831  
County: Aiken  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Malcolm Squires (Individual/Entity) owns property located in Jackson, South Carolina. On April 9, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

52) Order Type and Number: Administrative Order 20-64-OSWW  
Order Date: June 16, 2020  
Individual/Entity: **Cornelius Rice**  
Facility: Cornelius Rice  
Location: 165 Carver Road  
Taylors, SC 29687  
Mailing Address: 211 Highland Avenue  
Greer, SC 29651  
County: Greenville  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Cornelius Rice (Individual/Entity) owns property located in Taylors, South Carolina. On April 15, 2020, the Department investigated 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. The Department has assessed a civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

53) Order Type and Number: Administrative Order 20-70-OSWW  
Order Date: June 16, 2020  
Individual/Entity: **Benjamin Coffey and Ellen Coffey**  
Facility: Benjamin Coffey and Ellen Coffey  
Location: 137 West Idlewood Circle  
West Columbia, 29170  
Mailing Address: 215 Greenwood Road  
West Columbia, SC 29169  
County: Lexington  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Benjamin Coffey and Ellen Coffey (Individual/Entity) own property located in West Columbia, South Carolina. On March 3, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

54) <u>Order Type and Number:</u>	Administrative Order 20-72-OSWW
<u>Order Date:</u>	June 16, 2020
<u>Individual/Entity:</u>	<b>Brian T. Pearson</b>
<u>Facility:</u>	Brian T. Pearson
<u>Location:</u>	244 Newell Drive, Lot B Goose Creek, SC 29445
<u>Mailing Address:</u>	234 Connor Drive Eutawville, SC 29048
<u>County:</u>	Berkeley
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Brian T. Pearson (Individual/Entity) owns property located in Goose Creek, South Carolina. On May 8, 2020, the Department investigated 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. The Department has assessed a total civil penalty in the amount of five thousand dollars (\$5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars (**\$5,000.00**) should any requirement of the Order not be met.

55) Order Type and Number: Consent Order 20-28-OSWW  
Order Date: May 12, 2020  
Individual/Entity: **Wade Lucas Quattlebaum, d/b/a Lucas Septic**  
Facility: Wade Lucas Quattlebaum, d/b/a Lucas Septic  
Location: 8932 Charleston Highway  
Bowman, SC 29018  
Mailing Address: Same  
County: Berkeley  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Wade Lucas Quattlebaum, d/b/a Lucas Septic, (Individual/Entity) holds Department issued licenses to construct, repair, and clean onsite septic systems. On February 13, 2020, the Department investigated and observed domestic wastewater discharging onto the surface of the ground at 115 Wildwood Lane in Monks Corner, SC (Site). The domestic wastewater was being pumped from the septic tank 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: cease and desist discharging of septic tank effluent, domestic wastewater, or sewage to the surface of the ground. The Department has assessed a total civil penalty in the amount of five hundred dollars (\$500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**).

56) Order Type and Number: Consent Order 20-46-OSWW  
Order Date: May 12, 2020  
Individual/Entity: **Ronnie Gilbert and AARMS of Boiling Springs**  
Facility: Ronnie Gilbert and AARMS of Boiling Springs  
Location: 120 Riverside Drive  
Chesnee, SC 29323  
Mailing Address: Same  
County: Spartanburg  
Previous Orders: None  
Permit Number: None  
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Ronnie Gilbert and AARMS of Boiling Springs (Individual/Entity) hold a Department issued license to construct and repair onsite wastewater systems. The

Department conducted an investigation on February 21, 2020, due to a call from the Individual/Entity stating they upgraded an onsite wastewater system at a property on Cooley Springs School Road (Site) on February 15, 2020, without a permit being issued. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to upgrade the OSWW system in accordance with a Department issued permit since no permit had been applied for at the time of the upgrade.

Action: The Individual/Entity is required to: cease and desist installing or upgrading OSWW systems without a Department issued permit. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

57) <u>Order Type and Number:</u>	Consent Order 20-42-OSWW
<u>Order Date:</u>	May 21, 2020
<u>Individual/Entity:</u>	<b>Bobby Cooley, D/B/A B&amp;C Septic</b>
<u>Facility:</u>	Bobby Cooley, D/B/A B&C Septic
<u>Location:</u>	5801 Liberty Chapel Road Florence, SC 29506
<u>Mailing Address:</u>	Same
<u>County:</u>	Florence
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Bobby Cooley, D/B/A B&C Septic, (Individual/Entity) does not hold a Department issued license to construct, repair, and clean onsite septic systems. On February 7, 2020, the Department investigated and observed a septic tank installed higher than ground level, causing rainwater to run under the house. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: performed construction or repair of an onsite wastewater system without a valid license to conduct such activities.

Action: The Individual/Entity is required to: cease and desist installing or repairing onsite wastewater systems unless and until a valid Department issued license to construct and repair OSWW systems has been issued. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

58) <u>Order Type and Number:</u>	Consent Order 20-47-OSWW
<u>Order Date:</u>	May 21, 2020
<u>Individual/Entity:</u>	<b>Gene Goode, D/B/A Goode Backhoe and Septic</b>
<u>Facility:</u>	Gene Goode, D/B/A Goode Backhoe and Septic
<u>Location:</u>	811 West Cherokee Street Chesnee, SC 29323
<u>Mailing Address:</u>	Same
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Gene Goode, D/B/A Goode Backhoe and Septic, (Individual/Entity) has a Department issued license to install and repair onsite wastewater (OSWW) systems. On February 10, 2020, the Department investigated an Approval to Operate Contractor Self-Inspection (Self-Inspection) document and determined the OSWW system was not installed according to the Department issued permit. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: onsite wastewater system shall be constructed and operated according to the specifications and conditions of the permit, and in compliance with regulation S.C. Code Ann. 61-56.

Action: The Individual/Entity is required to: cease and desist installing OSWW systems outside the parameters of the Department issued permit to construct. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

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

(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Land and Waste Management

**Re: Notice of Proposed Regulation Amending R.61-79, *Hazardous Waste Management Regulations***

## I. Introduction

The Bureau of Land and Waste Management (“Bureau”) proposes the attached Notice of Proposed Regulation amending R.61-79, *Hazardous Waste Management Regulations*, for publication in the August 28, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 *et seq.*, which authorizes the Department of Health and Environmental Control (“Department”) to promulgate hazardous waste management regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal law.


## II. Facts

1. The Bureau proposes amending R.61-79, *Hazardous Waste Management Regulations*, to adopt the Environmental Protection Agency (“EPA”) final rule “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine,” published on February 22, 2019, at 84 FR 5816-5950. This rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter Food and Drug Administration-approved nicotine replacement therapies. Adoption of this rule is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.
2. The Bureau had a Notice of Drafting published in the April 24, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Bureau received no comments during the public comment period.
3. The Bureau published a summary of the proposed amendments on the Department’s Regulation Development Update webpage. The Bureau provided notice to interested parties via an email list on April 24, 2020. The Bureau maintains a web site (<https://www.scdhec.gov/about-dhec/laws-regulations-regulatory-updates/hazardous-waste-management-regulations-update-status>) which provides more detail on the proposed amendments.
4. Appropriate Department staff conducted an internal review of the proposed rule on June 3, 2020.



### III. Request for Approval

The Bureau respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.



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Henry Porter  
Chief  
Bureau of Land and Waste Management



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Myra Reece  
Director  
Environmental Affairs

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the April 24, 2020, *State Register*

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR R.61-79, *Hazardous Waste Management Regulations***

**August 13, 2020**

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

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

**Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79, Hazardous Waste Management Regulations, to adopt the Environmental Protection Agency (“EPA”) final rule “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine,” published on February 22, 2019, at 84 FR 5816-5950. The rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter Food and Drug Administration (“FDA”)-approved nicotine replacement therapies.

The Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes the amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 24, 2020, South Carolina State Register.

**Section-by-Section Discussion of Proposed Amendments:**

261.4(a)(1)(ii). Amend to clarify that discharging pharmaceuticals into a sewer system does not qualify for being excluded as a solid waste.

261.7(c). Add language to reference Part 266.507 for determining when containers of hazardous waste pharmaceuticals are considered empty with exceptions provided for in 266.507(c) and (d).

261.33(c). Amend to include a reference to 266.507 in defining when a container is “empty,” and amend the comment to modify “reuse” to “re-use.”

261.33(e). Table. Add language that states patches, gums, and lozenges that are FDA-approved are not included under the listing of “Nicotine & Salts” and “Pyridine.”

262.10(m). Add language that stipulates reverse distributors are subject to Part 266, subpart P.

262.10(n). Add language that clarifies which healthcare facilities are subject to Part 266, subpart P or 262.14 based on the quantity of hazardous waste it generates per calendar month.

262.13(c)(9). Add language that excludes hazardous waste pharmaceuticals managed in accordance with Part 266, subpart P and Drug Enforcement Administration controlled substances from being counted in monthly quantity-based determinations.

262.14(a)(5)(ix). Add language that allows small quantity generators of hazardous waste to treat or dispose of potentially creditable hazardous waste pharmaceuticals generated by healthcare facilities in off-site reverse distributors.

262.14(a)(5)(x). Add language that allows small quantity generators of hazardous waste to treat or dispose of non-creditable and potentially creditable hazardous waste pharmaceuticals in healthcare facilities that meet the conditions in sections 266.502(l) and 266.503(b).

264.1(g)(12). Add and reserve.

264.1(g)(13). Add language that clarifies that reverse distributors that accumulate potentially creditable and evaluated hazardous waste pharmaceuticals are subject to the regulations under Part 266, subpart P.

265.1(c)(15). Add and reserve.

265.1(c)(16). Add language that clarifies reverse distributors that accumulate potentially creditable and evaluated hazardous waste pharmaceuticals are subject to the regulations under Part 266, subpart P.

266 Table of Contents. Revise the Table of Contents to add new Subpart P.

266.500. Add new section for definitions.

266.501. Add new section that describes what types of facilities that generate hazardous waste pharmaceuticals are regulated under Part 266, subpart P and other sections.

266.502. Add new section that establishes standards for healthcare facilities managing non-credible hazardous waste pharmaceuticals.

266.503. Add new section that establishes standards for healthcare facilities that manage potentially creditable hazardous waste pharmaceuticals.

266.504. Add new section that establishes guidelines for healthcare facilities that generate very small numbers of pharmaceutical and non-pharmaceutical hazardous waste. This section establishes standards on where one of these facilities can send their potentially creditable hazardous waste pharmaceuticals. This language also establishes standards for long-term care facilities that are very small quantity generators and those with twenty or fewer beds.

266.505. Add new section that establishes a prohibition on healthcare facilities discharging hazardous waste pharmaceuticals into a sewer system that passes through to a publicly owned treatment works.

266.506. Add new section that offers conditional exemptions for hazardous waste pharmaceuticals if they are also controlled substances and household waste pharmaceuticals collected in a take-back event or program.

266.507. Add new section that defines what it means for containers, syringes, intravenous (IV) bags, and other containers such as delivery devices to be considered “empty.”

266.508. Add new section that establishes standards on exporting and importing non-creditable hazardous waste pharmaceuticals from a healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.

266.509. Add new section that establishes standards for exporting and importing potentially creditable hazardous waste pharmaceuticals from a healthcare facility or a reverse distributor to a reverse distributor.

266.510. Add new section that establishes standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.

268.7 and item (a). Revise title and item (a).

268.50(a)(4) and (5). Add language that states healthcare facilities and reverse distributors must accumulate the wastes prohibited in 268.50(a) in containers on-site solely for the purpose of facilitating proper recovery, treatment, or disposal of the waste, and denotes the section requirements to which these facilities must comply.

270.1(c)(2)(x). Revise to state which section reverse distributors are subject to for potentially creditable and evaluated hazardous waste pharmaceuticals.

270.1(c)(2)(xi) Add language that states that transporters that move hazardous waste only on the site of a hazardous waste generator or a permitted hazardous waste treatment, storage or disposal facility.

273.80(a). Revise to clarify petition language.

273.80(d). Add language that states that hazardous waste pharmaceuticals are not regulated under this section and are managed instead under Part 266, subpart P.

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

Interested persons may submit comment(s) on the proposed rule to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 12, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

## **Statement of Need and Reasonableness**

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

**DESCRIPTION OF REGULATION:** 61-79, Hazardous Waste Management Regulations

**Purpose:** The purpose of these amendments is to maintain state consistency with the following EPA regulation published in the Federal Register: “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine” rule, published on February 22, 2019, at 84 FR 5816-5950.

**Legal Authority:** 1976 Code Sections 44-56-10 et seq.

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

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

The Department proposes adopting the “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine” rule, published on February 22, 2019, at 84 FR 5816-5950. This rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter FDA-approved nicotine replacement therapies. Adoption of this rule is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

### **DETERMINATION OF COSTS AND BENEFITS:**

The EPA estimates that the annualized cost to industry to comply with the requirements will be off-set by the cost-savings resulting from streamlined management standards for healthcare facilities and regulatory relief with regards to FDA-approved over-the-counter nicotine replacement therapy products (Federal Register, Vol. 84, No. 36, page 5818). The provisions of the final rule are expected to improve regulatory clarity and reduce regulatory burden. Additionally, to the extent that the rule reduces concentrations of hazardous waste pharmaceuticals in surface and drinking waters, this rule may result in improved ecosystems and human health outcomes.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

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

The proposed revisions to R.61-79 will provide continued protection of the environment and human health in accordance with updates to federal law.

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

If the Department does not adopt these amendments, the EPA's delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the EPA requires South Carolina's regulations be at least as stringent as the federal regulations. Adoption of these proposed revisions will ensure equivalency with federal requirements.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Ann. Section 44-56-30

**Revise 261.4(a)(1)(ii) to read:**

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except as prohibited by Section 266.505 and Clean Water Act requirements at R.61-9.403.5(b)(1). "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

**Add 261.7(c) to read:**

(c) Containers of hazardous waste pharmaceuticals are subject to section 266.507 for determining when they are considered empty, in lieu of this section, except as provided by sections 266.507(c) and (d).

**Revise 261.33(c) and comment to read:**

(c) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, unless the container is empty as defined in Section 261.7(b) or 266.507 of this chapter.

[Comment: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the Department considers the residue to be intended for discard, and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.]

Revise the entries in 261.33(e) Table to read:

Section 261.33(e) Lists of Acute Hazardous Wastes ( <del>amended 11/90; 12/92; 5/96</del> )		
Hazardous waste No.	Chemical abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H3 AsO4
P012	1327-53-3	Arsenic oxide As2 O3
P011	1303-28-2	Arsenic oxide As2 O5
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-

Section 261.33(e) Lists of Acute Hazardous Wastes (amended 11/90; 12/92; 5/96)		
Hazardous waste No.	Chemical abstracts No.	Substance
		trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P001	<sup>1</sup> 81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium powder
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) <sub>2</sub>
P189	55285-14-8	Carbamic acid, [(dibutylamino)- thio]methyl-, 2,3-dihydro-2,2-dimethyl- 7-benzofuranyl ester.
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino) carbonyl]- 5-methyl-1H- pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1- (1-methylethyl)-1H- pyrazol-5-yl ester.
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate.
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine



Section 261.33(e) Lists of Acute Hazardous Wastes (amended 11/90; 12/92; 5/96)		
Hazardous waste No.	Chemical abstracts No.	Substance
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-
P051	<sup>1</sup> 72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-, & metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P191	644-64-4	Dimetilan
P047	<sup>1</sup> 534-52-1	4,6-Dinitro-o-cresol, & salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramidate, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)- carbonyl]oxime.
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester.
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine

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Hazardous waste No.	Chemical abstracts No.	Substance
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate.
P065	628-86-4	Fulminic acid, mercury(2 ) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate.
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3- [[[(methylamino)-carbonyl]oxy]phenyl]-, monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4- [[[(methylamino)carbonyl]oxy]phenyl]-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro- 3a,4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine

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Hazardous waste No.	Chemical abstracts No.	Substance
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methylactonitrile
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb.
P128	315-8-4	Mexacarbate
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) <sub>2</sub>
P075	<sup>1</sup> 54-11-5	Nicotine & salts (this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies)
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4-dinitro-
P047	<sup>1</sup> 534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate.
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P092	62-38-4	Phenylmercury acetate

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Hazardous waste No.	Chemical abstracts No.	Substance
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol

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Hazardous waste No.	Chemical abstracts No.	Substance
P008	504-24-5	4-Pyridinamine
P075	<sup>1</sup> 54-11-5	Pyridine, 3-(1-methyl-2- pyrrolidiny),- (S)-, & salts (this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies)
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1 ) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	<sup>1</sup> 57-24-9	Strychnidin-10-one, & salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	<sup>1</sup> 57-24-9	Strychnine, & salts
P115	7446-18-6	Sulfuric acid, dithallium(1 ) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl <sub>2</sub> O <sub>3</sub>
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Thallium(I) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> NH
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P185	26419-73-8	Tirpate
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt

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Hazardous waste No.	Chemical abstracts No.	Substance
P120	1314-62-1	Vanadium oxide V2 O5
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	<sup>1</sup> 81-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P205	137-30-4	Zinc, bis(dimethylcarbamo-dithioato-S,S')-,
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN)2
P122	1314-84-7	Zinc phosphide Zn3 P2, when present at concentrations greater than 10% (R,T)
P205	137-30-4	Ziram
P001	<sup>1</sup> 81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P001	<sup>1</sup> 81-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P002	591-08-2	Acetamide, -(aminothioxomethyl)-
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P003	107-02-8	2-Propenal
P004	309-00-2	Aldrin
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P005	107-18-6	Allyl alcohol
P005	107-18-6	2-Propen-1-ol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P008	504-24-5	4-Aminopyridine
P008	504-24-5	4-Pyridinamine
P009	131-74-8	Ammonium picrate (R)
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P010	7778-39-4	Arsenic acid H3 AsO4
P011	1303-28-2	Arsenic oxide As2 O5
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic oxide As2 O3
P012	1327-53-3	Arsenic trioxide
P013	542-62-1	Barium cyanide
P014	108-98-5	Benzenethiol

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Hazardous waste No.	Chemical abstracts No.	Substance
P014	108-98-5	Thiophenol
P015	7440-41-7	Beryllium powder
P016	542-88-1	Dichloromethyl ether
P016	542-88-1	Methane, oxybis[chloro-
P017	598-31-2	Bromoacetone
P017	598-31-2	2-Propanone, 1-bromo-
P018	357-57-3	Brucine
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P020	88-85-7	Dinoseb
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) <sub>2</sub>
P022	75-15-0	Carbon disulfide
P023	107-20-0	Acetaldehyde, chloro-
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	Benzenamine, 4-chloro-
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P027	542-76-7	3-Chloropropionitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P028	100-44-7	Benzene, (chloromethyl)-
P028	100-44-7	Benzyl chloride
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P031	460-19-5	Ethanedinitrile
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036	696-28-6	Arsonous dichloride, phenyl-
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-

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Hazardous waste No.	Chemical abstracts No.	Substance
P038	692-42-2	Arsine, diethyl-
P038	692-42-2	Diethylarsine
P039	298-04-4	Disulfoton
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P042	51-43-4	Epinephrine
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P044	60-51-5	Dimethoate
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime
P045	39196-18-4	Thiofanox
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P047	<sup>1</sup> 534-52-1	4,6-Dinitro-o-cresol, & salts
P047	<sup>1</sup> 534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P048	51-28-5	2,4-Dinitrophenol
P048	51-28-5	Phenol, 2,4-dinitro-
P049	541-53-7	Dithiobiuret
P049	541-53-7	Thioimidodicarbonic diamide [(H2 N)C(S)]2 NH
P050	115-29-7	Endosulfan
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P051	<sup>1</sup> 72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-, & metabolites
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P054	151-56-4	Aziridine
P054	151-56-4	Ethyleneimine



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Hazardous waste No.	Chemical abstracts No.	Substance
P056	7782-41-4	Fluorine
P057	640-19-7	Acetamide, 2-fluoro-
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P058	62-74-8	Fluoroacetic acid, sodium salt
P059	76-44-8	Heptachlor
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P060	465-73-6	Isodrin
P062	757-58-4	Hexaethyl tetraphosphate
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P064	624-83-9	Methane, isocyanato-
P064	624-83-9	Methyl isocyanate
P065	628-86-4	Fulminic acid, mercury(2 ) salt (R,T)
P065	628-86-4	Mercury fulminate (R,T)
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P066	16752-77-5	Methomyl
P067	75-55-8	Aziridine, 2-methyl-
P067	75-55-8	1,2-Propylenimine
P068	60-34-4	Hydrazine, methyl-
P068	60-34-4	Methyl hydrazine
P069	75-86-5	2-Methylactonitrile
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P070	116-06-3	Aldicarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P071	298-00-0	Methyl parathion
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P072	86-88-4	alpha-Naphthylthiourea
P072	86-88-4	Thiourea, 1-naphthalenyl-
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO)4, (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN)2

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Hazardous waste No.	Chemical abstracts No.	Substance
P075	<sup>1</sup> 54-11-5	Nicotine, & salts (this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies)
P075	<sup>1</sup> 54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)- (S)-, & salts (this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies)
P076	10102-43-9	Nitric oxide
P076	10102-43-9	Nitrogen oxide NO
P077	100-01-6	Benzenamine, 4-nitro-
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P081	55-63-0	Nitroglycerine (R)
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P082	62-75-9	Methanamine, -methyl-N-nitroso-
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P084	4549-40-0	Vinylamine, -methyl-N-nitroso-
P085	152-16-9	Diphosphoramidate, octamethyl-
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	Endothall
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P092	62-38-4	Mercury, (acetato-O)phenyl-
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P093	103-85-5	Thiourea, phenyl-
P094	298-02-2	Phorate
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P095	75-44-5	Carbonic dichloride
P095	75-44-5	Phosgene
P096	7803-51-2	Hydrogen phosphide
P096	7803-51-2	Phosphine
P097	52-85-7	Famphur

Section 261.33(e) Lists of Acute Hazardous Wastes (amended 11/90; 12/92; 5/96)		
Hazardous waste No.	Chemical abstracts No.	Substance
P097	52-85-7	Phosphorothioic acid, O-[4- [(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P099	506-61-6	Potassium silver cyanide
P101	107-12-0	Ethyl cyanide
P101	107-12-0	Propanenitrile
P102	107-19-7	Propargyl alcohol
P102	107-19-7	2-Propyn-1-ol
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	<sup>1</sup> 157-24-9	Strychnidin-10-one, & salts
P108	<sup>1</sup> 157-24-9	Strychnine, & salts
P109	3689-24-5	Tetraethyldithiopyrophosphate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P110	78-00-2	Plumbane, tetraethyl-
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Methane, tetranitro-(R)
P112	509-14-8	Tetranitromethane (R)
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl <sub>2</sub> O <sub>3</sub>
P114	12039-52-0	Selenious acid, dithallium(1 ) salt
P114	12039-52-0	Tetraethyldithiopyrophosphate
P115	7446-18-6	Thiodiphosphoric acid, tetraethyl ester
P115	7446-18-6	Plumbane, tetraethyl-
P116	79-19-6	Tetraethyl lead
P116	79-19-6	Thiosemicarbazide
P118	75-70-7	Methanethiol, trichloro-
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Ammonium vanadate
P119	7803-55-6	Vanadic acid, ammonium salt

Section 261.33(e) Lists of Acute Hazardous Wastes ( <del>amended 11/90; 12/92; 5/96</del> )		
Hazardous waste No.	Chemical abstracts No.	Substance
P120	1314-62-1	Vanadium oxide V2O5
P120	1314-62-1	Vanadium pentoxide
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN)2
P122	1314-84-7	Zinc phosphide Zn3 P2, when present at concentrations greater than 10% (R,T)
P123	8001-35-2	Toxaphene
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P127	1563-66-2	Carbofuran
P128	315-8-4	Mexacarbate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime
P185	26419-73-8	Tirpate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P188	57-64-7	Physostigmine salicylate
P189	55285-14-8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285-14-8	Carbosulfan
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129-41-5	Metolcarb
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191	644-64-4	Dimetilan
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119-38-0	Isolan
P194	23135-22-0	Ethanimidthioic acid, 2-(dimethylamino)-N-[[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester
P194	23135-22-0	Oxamyl
P196	15339-36-3	Manganese, bis(dimethylcarbomodithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P197	17702-57-7	Formparanate
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P198	23422-53-9	Formetanate hydrochloride

Section 261.33(e) Lists of Acute Hazardous Wastes (amended 11/90; 12/92; 5/96)		
Hazardous waste No.	Chemical abstracts No.	Substance
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3- [[[(methylamino)-carbonyl]oxy]phenyl]- monohydrochloride
P199	2032-65-7	Methiocarb
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P201	2631-37-0	Promecarb
P202	64-00-6	m-Cumenyl methylcarbamate
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P203	1646-88-4	Aldicarb sulfone
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O- [[methylamino)carbonyl] oxime
P204	57-47-6	Physostigmine
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro- 1,3a,8-trimethyl-, methylcarbamate (ester), (3aS- cis)-
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-,
P205	137-30-4	Ziram

**Add 262.10(m) to read:**

(m) All reverse distributors (as defined in Section 266.500) are subject to part 266, subpart P for the management of hazardous waste pharmaceuticals in lieu of this part.

**Add 262.10(n) to read:**

(n) Each healthcare facility (as defined in Section 266.500) must determine whether it is subject to part 266, subpart P for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month (including both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste). A healthcare facility that generates more than 100 kg (220 pounds) of hazardous waste per calendar month, or more than 1 kg (2.2 pounds) of acute hazardous waste per calendar month, or more than 100 kg (220 pounds) per calendar month of any residue or contaminated soil, water, or other debris, resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in Section 261.31 or Section 261.33(e), is subject to part 266, subpart P for the management of hazardous waste pharmaceuticals in lieu of this part. A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section 262.14 and is not subject to part 266, subpart P, except for Sections 266.505 and 266.507 and the optional provisions of Section 266.504.

**Add 262.13 (c)(9) to read:**

(9) Is a hazardous waste pharmaceutical, as defined in Section 266.500, that is subject to or managed in accordance with part 266, subpart P or is a hazardous waste pharmaceutical that is also a Drug Enforcement Administration controlled substance and is conditionally exempt under Section 266.506.

**Add 262.14(a)(5)(ix) to read:**

(ix) A reverse distributor (as defined in Section 266.500), if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a healthcare facility (as defined in Section 266.500).

**Add 262.14(a)(5)(x) to read:**

(x) A healthcare facility (as defined in Section 266.500) that meets the conditions in Sections 266.502(l) and 266.503(b), as applicable, to accept non-creditable hazardous waste pharmaceuticals and potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator.

**Add and reserve 264.1(g)(12) to read:**

(12) [Reserved]

**Add 264.1(g)(13) to read:**

(13) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section 266.500. Reverse distributors are subject to regulation under part 266, subpart P in lieu of this part for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

**Add and reserve 265.1(c)(15) to read:**

(15) [Reserved]

**Add 265.1(c)(16) to read:**

(16) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section 266.500. Reverse distributors are subject to regulation under part 266, subpart P in lieu of this part for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

**Revise the 266.Table of Contents to read:**

**SUBPART O: [RESERVED]**

**SUBPART P: HAZARDOUS WASTE PHARMACEUTICALS**

266.500. Definitions for this subpart.

266.501. Applicability.

266.502. Standards for healthcare facilities managing non-creditable hazardous waste pharmaceuticals.

266.503. Standards for healthcare facilities managing potentially creditable hazardous waste pharmaceuticals.

266.504. Healthcare facilities that are very small quantity generators for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste.

266.505. Prohibition of sewerage hazardous waste pharmaceuticals.

266.506. Conditional exemptions for hazardous waste pharmaceuticals that are also controlled substances and household waste pharmaceuticals collected in a take-back event or program.

266.507. Residues of hazardous waste pharmaceuticals in empty containers.

266.508. Shipping non-creditable hazardous waste pharmaceuticals from a healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.

266.509. Shipping potentially creditable hazardous waste pharmaceuticals from a healthcare facility or a reverse distributor to a reverse distributor.

266.510. Standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.

**Add 266.500 to read:**

**266.500. Definitions for this subpart.**

The following definitions apply to this subpart:

“Evaluated hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with Section 266.510(a)(3) and will not be sent to another reverse distributor for further evaluation or verification of manufacture credit.

“Hazardous waste pharmaceutical” means a pharmaceutical that is a solid waste, as defined in Section 261.2, and exhibits one or more characteristics identified in part 261 subpart C or is listed in part 261, subpart D. A pharmaceutical is not a solid waste, as defined in Section 261.2, and therefore not a hazardous waste pharmaceutical, if it is legitimately used/reused (e.g., lawfully donated for its intended purpose) or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in Section 261.2, and therefore not a hazardous waste pharmaceutical, if it has a reasonable expectation of being legitimately used/reused (e.g., lawfully redistributed for its intended purpose) or reclaimed.

“Healthcare facility” means any person that is lawfully authorized to –

(1) provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

(2) distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians’ offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistics centers.

“Household waste pharmaceutical” means a pharmaceutical that is a solid waste, as defined in Section 261.2, but is excluded from being a hazardous waste under Section 261.4(b)(1).

“Long-term care facility” means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals at the facility. This definition includes, but is not limited to, hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities.

“Non-creditable hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals.

“Non-hazardous waste pharmaceutical” means a pharmaceutical that is a solid waste, as defined in Section 261.2, and is not listed in part 261, subpart D, and does not exhibit a characteristic identified in part 261, subpart C.

“Non-pharmaceutical hazardous waste” means a solid waste, as defined in Section 261.2, that is listed in part 261, subpart D, or exhibits one or more characteristics identified in part 261, subpart C, but is not a pharmaceutical, as defined in this Section.

“Pharmaceutical” means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

“Potentially creditable hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is-

(1) in original manufacturer packaging (except pharmaceuticals that were subject to a recall);

(2) undispensed; and

(3) unexpired or less than one year past expiration date.

The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

“Reverse distributor” means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.



**Add 266.501 to read:**

**266.501. Applicability.**

(a) A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section 262.14 and is not subject to this subpart, except for Sections 266.505 and 266.507 and the optional provisions of Section 266.504.

(b) A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, has the option of complying with Section 266.501(d) for the management of its hazardous waste pharmaceuticals as an alternative to complying with Section 262.14 and the optional provisions of Section 266.504.

(c) A healthcare facility or reverse distributor remains subject to all applicable hazardous waste regulations with respect to the management of its non-pharmaceutical hazardous waste.

(d) With the exception of healthcare facilities identified in subsection (a), a healthcare facility is subject to the following in lieu of parts 262–265:

(1) Sections 266.502 and 266.505 through 266.508 of this subpart with respect to the management of:

(i) Non-creditable hazardous waste pharmaceuticals, and

(ii) Potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.

(2) Sections 262.502(a), 266.503, 266.505 through 266.507, and 266.509 of this subpart with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.

(e) A reverse distributor is subject to Sections 266.505 through 266.510 of this subpart in lieu of parts 262 through 265 with respect to the management of hazardous waste pharmaceuticals.

(f) Hazardous waste pharmaceuticals generated or managed by entities other than healthcare facilities and reverse distributors (e.g., pharmaceutical manufacturers and reverse logistics centers) are not subject to this subpart. Other generators are subject to 40 CFR part 262 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.

(g) The following are not subject to parts 260 through 273, except as specified:

(1) Pharmaceuticals that are not solid waste, as defined by Section 261.2, because they are legitimately used/re-used (e.g., lawfully donated for their intended purpose) or reclaimed.

(2) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined by Section 261.2, because they have a reasonable expectation of being legitimately used/re-used (e.g., lawfully redistributed for their intended purpose) or reclaimed.

(3) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with 21 CFR part 7, subpart C. This subpart does apply to the management of the recalled hazardous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.

(4) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the Consumer Product Safety Commission in accordance with 16 CFR part 1115. This subpart does apply to the management of the recalled hazardous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.

(5) Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding has concluded and/or a decision is made to discard the pharmaceuticals.

(6) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 CFR part 312. This subpart does apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.

(7) Household waste pharmaceuticals, including those that have been collected by an authorized collector (as defined by the Drug Enforcement Administration), provided the authorized collector complies with the conditional exemption in Sections 266.506(a)(2) and 266.506(b).

**Add 266.502 to read:**

**266.502. Standards for healthcare facilities managing non-creditable hazardous waste pharmaceuticals.**

(a) Notification and withdrawal from this subpart for healthcare facilities managing hazardous waste pharmaceuticals—

(1) Notification. A healthcare facility must notify the Department, using the Site Identification Form (EPA Form 8700-12), that it is a healthcare facility operating under this subpart. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous Waste) of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (Site Identification Form) for each site or EPA identification number.

(i) A healthcare facility that already has an EPA identification number must notify the Department using the Site Identification Form (EPA Form 8700-12) that it is a healthcare facility. A large quantity generator must notify the Department in its next quarterly report per Section 262.41. A small quantity generator must notify the Department in its annual declaration per Section 262.44.

(ii) A healthcare facility that does not have an EPA identification number must obtain one by notifying the Department using the Site Identification Form (EPA Form 8700-12) that it is a healthcare facility within thirty (30) calendar days of the effective date of this subpart or within thirty (30) calendar days of becoming subject to this subpart.

(iii) A healthcare facility must keep a copy of its notification on file for as long as the healthcare facility is subject to this subpart.

(2) Withdrawal. A healthcare facility that operated under this subpart but is no longer subject to this subpart, because it is a very small quantity generator under Section 262.14, and elects to withdraw from this subpart, must notify the Department using the Site Identification Form (EPA Form 8700-12) that it is no longer operating under this subpart. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous Waste) of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (Site Identification Form) for each EPA identification number.

(i) A healthcare facility must submit the Site Identification Form notifying that it is withdrawing from this subpart before it begins operating under the conditional exemption of Section 262.14.

(ii) A healthcare facility must keep a copy of its withdrawal on file for three years from the date of signature on the notification of its withdrawal.

(b) Training of personnel managing non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility must ensure that all personnel that manage non-creditable hazardous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(c) Hazardous waste determination for non-creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a non-creditable pharmaceutical must determine whether that pharmaceutical is a hazardous waste pharmaceutical (i.e., it exhibits a characteristic identified in part 261, subpart C or is listed in part 261, subpart D) in order to determine whether the waste is subject to this subpart. A healthcare facility may choose to manage its non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals under this subpart.

(d) Standards for containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility must place non-creditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A healthcare facility that manages ignitable or reactive non-creditable hazardous waste pharmaceuticals, or that mixes or commingles incompatible non-creditable hazardous waste pharmaceuticals must manage the container so that it does not have the potential to:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the container of non-creditable hazardous waste pharmaceuticals; or

(v) Through other like means threaten human health or the environment.

(3) A healthcare facility must keep containers of non-creditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents.

(4) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals in the same container, except that non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of Section 268.3(c) must be accumulated in separate containers and labeled with all applicable hazardous waste numbers (i.e., hazardous waste codes).

(e) Labeling containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility must label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase “Hazardous Waste Pharmaceuticals.”

(f) Maximum accumulation time for non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals on-site for one (1) year or less without a permit or having interim status.

(2) A healthcare facility that accumulates non-creditable hazardous waste pharmaceuticals on-site must demonstrate the length of time that the non-creditable hazardous waste pharmaceuticals have been accumulating, starting from the date it first becomes a waste. A healthcare facility may make this demonstration by any of the following methods:

(i) Marking or labeling the container of non-creditable hazardous waste pharmaceuticals with the date that the non-creditable hazardous waste pharmaceuticals became a waste;

(ii) Maintaining an inventory system that identifies the date the non-creditable hazardous waste pharmaceuticals being accumulated first became a waste; or

(iii) Placing the non-creditable hazardous waste pharmaceuticals in a specific area and identifying the earliest date that any of the non-creditable hazardous waste pharmaceuticals in the area became a waste.

(g) Land disposal restrictions for non-creditable hazardous waste pharmaceuticals. The non-creditable hazardous waste pharmaceuticals generated by a healthcare facility are subject to the land disposal restrictions of part 268. A healthcare facility that generates non-creditable hazardous waste pharmaceuticals must comply with the land disposal restrictions in accordance with Section 268.7(a) requirements, except that it is not required to identify the hazardous waste numbers (i.e., hazardous waste codes) on the land disposal restrictions notification.

(h) Procedures for healthcare facilities for managing rejected shipments of non-creditable hazardous waste pharmaceuticals. A healthcare facility that sends a shipment of non-creditable hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of Section 264.72 or Section 265.72 of this chapter may accumulate the returned non-creditable hazardous waste pharmaceuticals on-site for up to an additional ninety (90) calendar days provided the rejected or returned shipment is managed in accordance with paragraphs (d) and (e) of this section. Upon receipt of the returned shipment, the healthcare facility must:

(1) Sign either:

(i) Item 18c of the original manifest, if the original manifest was used for the returned shipment;  
or

(ii) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within thirty (30) calendar days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the healthcare facility; and

(4) Within ninety (90) calendar days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of Section 266.508(a).

(i) Reporting by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) Reporting by healthcare facilities. Healthcare facilities are not subject to reporting requirements under Section 262.41 or Section 262.44 with respect to non-creditable hazardous waste pharmaceuticals managed under this subpart.

(2) Exception reporting by healthcare facilities for a missing copy of the manifest.

(i) For shipments from a healthcare facility to a designated facility:

(A) If a healthcare facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within sixty (60) days of the date the non-creditable hazardous waste pharmaceuticals were accepted by the initial transporter, the healthcare facility must submit:

(1) A legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Department for the Region in which the healthcare facility is located, and

(2) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) [Reserved]

(ii) For shipments rejected by the designated facility and shipped to an alternate facility.

(A) If a healthcare facility does not receive a copy of the manifest for a rejected shipment of the non-creditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility (using appropriate manifest procedures), with the signature of the owner or operator of the alternate facility, within sixty (60) days of the date the non-creditable hazardous waste was accepted by the initial transporter forwarding the shipment of non-creditable hazardous waste pharmaceuticals from the designated facility to the alternate facility, the healthcare facility must submit:

(1) A legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Department for the state in which the healthcare facility is located; and

(2) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) [Reserved]

(3) Additional reports. The Department may require healthcare facilities to furnish additional reports concerning the quantities and disposition of non-creditable hazardous waste pharmaceuticals.

(j) Recordkeeping by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) A healthcare facility must keep a copy of each manifest signed in accordance with Section 262.23(a) for three (3) years or until it receives a signed copy from the designated facility that received the non-creditable hazardous waste pharmaceuticals. This signed copy must be retained as a record for at least three (3) years from the date the waste was accepted by the initial transporter.

(2) A healthcare facility must keep a copy of each exception report for a period of at least three (3) years from the date of the report.

(3) A healthcare facility must keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determination(s) consistent with Section 262.11(f), for at least three (3) years from the date the waste was last sent to on-site or off-site treatment, storage, or disposal. A healthcare facility that manages all of its non-creditable non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals is not required to keep documentation of hazardous waste determinations.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Department.

(5) All records must be readily available upon request by an inspector.

(k) Response to spills of non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility must immediately contain all spills of non-creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with the requirements of this subpart.

(l) Accepting non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section 262.14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) Is under the control of the same person (as defined in Section 260.10) as the very small quantity generator healthcare facility that is sending the non-creditable hazardous waste pharmaceuticals off-site (“control,” for the purposes of this section, means the power to direct the policies of the healthcare facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in Section 260.10 of this chapter shall not be deemed to “control” such healthcare facilities) or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

\_\_\_\_\_ (2) Is operating under this subpart for the management of its non-creditable hazardous waste pharmaceuticals;

\_\_\_\_\_ (3) Manages the non-creditable hazardous waste pharmaceuticals that it receives from off site in compliance with this subpart; and

\_\_\_\_\_ (4) Keeps records of the non-creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

**Add 266.503 to read:**

**266.503. Standards for healthcare facilities managing potentially creditable hazardous waste pharmaceuticals.**

\_\_\_\_\_ (a) Hazardous waste determination for potentially creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a potentially creditable pharmaceutical must determine whether the potentially creditable pharmaceutical is a potentially creditable hazardous waste pharmaceutical (i.e., it is listed in part 261, subpart D or exhibits a characteristic identified in part 261, subpart C). A healthcare facility may choose to manage its potentially creditable non-hazardous waste pharmaceuticals as potentially creditable hazardous waste pharmaceuticals under this subpart.

\_\_\_\_\_ (b) Accepting potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section 262.14, without a permit or without having interim status, provided the receiving healthcare facility:

\_\_\_\_\_ (1) Is under the control of the same person, as defined in Section 260.10, as the very small quantity generator healthcare facility that is sending the potentially creditable hazardous waste pharmaceuticals off site, or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

\_\_\_\_\_ (2) Is operating under this subpart for the management of its potentially creditable hazardous waste pharmaceuticals;

\_\_\_\_\_ (3) Manages the potentially creditable hazardous waste pharmaceuticals that it receives from off site in compliance with this subpart; and

\_\_\_\_\_ (4) Keeps records of the potentially creditable hazardous waste pharmaceuticals shipments it receives from off site for three (3) years from the date that the shipment is received.

\_\_\_\_\_ (c) Prohibition. Healthcare facilities are prohibited from sending hazardous wastes other than potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

\_\_\_\_\_ (d) Reporting by healthcare facilities. Healthcare facilities are not subject to reporting requirements under Section 262.41 or Section 262.44 with respect to potentially creditable hazardous waste pharmaceuticals managed under this subpart.

\_\_\_\_\_ (e) Recordkeeping by healthcare facilities.

(1) A healthcare facility that initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor must keep the following records (paper or electronic) for each shipment of potentially creditable hazardous waste pharmaceuticals for three (3) years from the date of shipment:

(i) The confirmation of delivery; and

(ii) The shipping papers prepared in accordance with 49 CFR part 172, subpart C, if applicable.

(2) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Department.

(3) All records must be readily available upon request by an inspector.

(f) Response to spills of potentially creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility must immediately contain all spills of potentially creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with this subpart.

**Add 266.504 to read:**

**266.504. Healthcare facilities that are very small quantity generators for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste.**

(a) Potentially creditable hazardous waste pharmaceuticals. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(b) Off-site collection of hazardous waste pharmaceuticals generated by a healthcare facility that is a very small quantity generator. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its hazardous waste pharmaceuticals off-site to another healthcare facility, provided:

(1) The receiving healthcare facility meets the conditions in Section 266.502(l) of this subpart and Section 266.503(b), as applicable; or

(2) The very small quantity generator healthcare facility meets the conditions in section 262.14(a)(5)(viii) and the receiving large quantity generator meets the conditions in Section 262.17(f).

(c) Long-term care facilities that are very small quantity generators. A long-term care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may dispose of its hazardous waste pharmaceuticals (excluding contaminated personal protective equipment or clean-up materials) in an on-site collection receptacle of an authorized collector (as defined by the Drug Enforcement Administration) that is registered with the Drug Enforcement Administration provided the contents are collected, stored, transported, destroyed, and disposed of in compliance with all applicable Drug Enforcement Administration regulations for controlled substances.

(d) Long-term care facilities with twenty (20) beds or fewer. A long-term care facility with twenty (20) beds or fewer is presumed to be a very small quantity generator subject to Section 262.14 for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste and not subject to this subpart, except for Sections 266.505 and 266.507 and the other optional provisions of this section. The Department has the



responsibility to demonstrate that a long-term care facility with twenty (20) beds or fewer generates quantities of hazardous waste that are in excess of the very small quantity generator limits as defined in Section 260.10. A long-term care facility with more than twenty (20) beds that operates as a very small quantity generator under Section 262.14 must demonstrate that it generates quantities of hazardous waste that are within the very small quantity generator limits as defined by Section 260.10.

**Add 266.505 to read:**

**266.505. Prohibition of sewerage hazardous waste pharmaceuticals.**

All healthcare facilities—including very small quantity generators operating under section 262.14 in lieu of this subpart—and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly owned treatment works. Healthcare facilities and reverse distributors remain subject to the prohibitions in R.61-9.403.5(b)(1).

**Add 266.506 to read:**

**266.506. Conditional exemptions for hazardous waste pharmaceuticals that are also controlled substances and household waste pharmaceuticals collected in a take-back event or program.**

(a) Conditional exemptions. Provided the conditions of paragraph (b) of this section are met, the following are exempt from parts 262 through 273:

(1) Hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 CFR part 1308, and

(2) Household waste pharmaceuticals that are collected in a take-back event or program, including those that are collected by an authorized collector (as defined by the Drug Enforcement Administration) registered with the Drug Enforcement Administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user (as defined by the Drug Enforcement Administration).

(b) Conditions for exemption. The hazardous waste pharmaceuticals must be:

(1) Managed in compliance with the sewer prohibition of Section 266.505;

(2) Collected, stored, transported, and disposed of in compliance with all applicable Drug Enforcement Administration regulations for controlled substances; and

(3) Destroyed by a method that the Drug Enforcement Administration has publicly deemed in writing to meet their non-retrievable standard of destruction or combusted at one of the following:

(i) A permitted large municipal waste combustor, subject to 40 CFR part 62, subpart FFF or applicable state plan for existing large municipal waste combustors, or 40 CFR part 60, subpart Eb for new large municipal waste combustors; or

(ii) A permitted small municipal waste combustor, subject to 40 CFR part 62, subpart JJJ or applicable state plan for existing small municipal waste combustors, or 40 CFR part 60, subpart AAAA for new small municipal waste combustors; or

(iii) A permitted hospital, medical and infectious waste incinerator, subject to 40 CFR part 62, subpart HHH or applicable state plan for existing hospital, medical and infectious waste incinerators, or 40 CFR part 60, subpart Ec for new hospital, medical and infectious waste incinerators.

(iv) A permitted commercial and industrial solid waste incinerator, subject to 40 CFR part 62, subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 CFR part 60, subpart CCCC for new commercial and industrial solid waste incinerators.

(v) A permitted hazardous waste combustor subject to 40 CFR part 63, subpart EEE.

**Add 266.507 to read:**

**266.507. Residues of hazardous waste pharmaceuticals in empty containers.**

(a) Stock, dispensing, and unit-dose containers. A stock bottle, dispensing bottle, vial, or ampule (not to exceed 1 liter or 10,000 pills); or a unit-dose container (e.g., a unit-dose packet, cup, wrapper, blister pack, or delivery device) is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or the unit-dose container using the practices commonly employed to remove materials from that type of container.

(b) Syringes. A syringe is considered empty and the residues are not regulated as hazardous waste under this subpart provided the contents have been removed by fully depressing the plunger of the syringe. If a syringe is not empty, the syringe must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this subpart and any applicable federal, state, and local requirements for sharps containers and medical waste.

(c) Intravenous (IV) bags. An intravenous (IV) bag is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals in the intravenous (IV) bag have been fully administered to a patient. If an intravenous (IV) bag is not empty, the intravenous (IV) bag must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this subpart, unless the intravenous (IV) bag held non-acute hazardous waste pharmaceuticals and is empty as defined in Section 261.7(b)(1).

(d) Other containers, including delivery devices. Hazardous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed as non-creditable hazardous waste pharmaceuticals under this subpart, unless the container held non-acute hazardous waste pharmaceuticals and is empty as defined in Section 261.7(b)(1) or (2). This includes, but is not limited to, residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

**Add 266.508 to read:**

**266.508. Shipping non-creditable hazardous waste pharmaceuticals from a healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.**

(a) Shipping non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility must ship non-creditable hazardous waste pharmaceuticals and a reverse distributor must ship evaluated hazardous waste pharmaceuticals off-site to a designated facility (such as a permitted or interim status treatment, storage, or disposal facility) in compliance with:

(1) The following pre-transport requirements, before transporting or offering for transport off-site:

(i) Packaging. Package the waste in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR parts 173, 178, and 180.

(ii) Labeling. Label each package in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR part 172, subpart E.

(iii) Marking.

(A) Mark each package of hazardous waste pharmaceuticals in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR part 172, subpart D;

(B) Mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

“HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Healthcare Facility’s or Reverse distributor’s Name and Address \_\_\_\_\_.

Healthcare Facility’s or Reverse distributor’s EPA Identification Number \_\_\_\_\_.

Manifest Tracking Number \_\_\_\_\_.”

(C) Lab packs that will be incinerated in compliance with Section 268.42(c) are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the EPA Hazardous Waste Number(s).

(iv) Placarding. Placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F.

(2) The manifest requirements of part 262, subpart B, except that:

(i) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals is not required to list all applicable hazardous waste numbers (i.e., hazardous waste codes) in Item 13 of EPA Form 8700-22.

(ii) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals must write the word “PHARMS” in Item 13 of EPA Form 8700-22.

(b) Exporting non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility or reverse distributor that exports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to part 262, subpart H.

(c) Importing non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. Any person that imports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to part 262, subpart H. A healthcare facility or reverse distributor may not accept imported non-creditable hazardous waste pharmaceuticals or evaluated

hazardous waste pharmaceuticals unless they have a permit or interim status that allows them to accept hazardous waste from off site.

**Add 266.509 to read:**

**266.509. Shipping potentially creditable hazardous waste pharmaceuticals from a healthcare facility or a reverse distributor to a reverse distributor.**

(a) Shipping potentially creditable hazardous waste pharmaceuticals. A healthcare facility or a reverse distributor who transports or offers for transport potentially creditable hazardous waste pharmaceuticals off-site to a reverse distributor must comply with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for any potentially creditable hazardous waste pharmaceutical that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the U.S. Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR part 262. Because a potentially creditable hazardous waste pharmaceutical does not require a manifest, it is not considered hazardous waste under the U.S. Department of Transportation regulations.

(b) Delivery confirmation. Upon receipt of each shipment of potentially creditable hazardous waste pharmaceuticals, the receiving reverse distributor must provide confirmation (paper or electronic) to the healthcare facility or reverse distributor that initiated the shipment that the shipment of potentially creditable hazardous waste pharmaceuticals has arrived at its destination and is under the custody and control of the reverse distributor.

(c) Procedures for when delivery confirmation is not received within thirty-five (35) calendar days. If a healthcare facility or reverse distributor initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor and does not receive delivery confirmation within thirty-five (35) calendar days from the date that the shipment of potentially creditable hazardous waste pharmaceuticals was sent, the healthcare facility or reverse distributor that initiated the shipment must contact the carrier and the intended recipient (i.e., the reverse distributor) promptly to report that the delivery confirmation was not received and to determine the status of the potentially creditable hazardous waste pharmaceuticals.

(d) Exporting potentially creditable hazardous waste pharmaceuticals. A healthcare facility or reverse distributor that sends potentially creditable hazardous waste pharmaceuticals to a foreign destination must comply with the applicable sections of part 262, subpart H, except the manifesting requirement of Section 262.83(c), in addition to paragraphs (a) through (c) of this section.

(e) Importing potentially creditable hazardous waste pharmaceuticals. Any person that imports potentially creditable hazardous waste pharmaceuticals into the United States is subject to paragraphs (a) through (c) of this section in lieu of part 262, subpart H. Immediately after the potentially creditable hazardous waste pharmaceuticals enter the United States, they are subject to all applicable requirements of this subpart.

**Add 266.510 to read:**

**266.510. Standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.**

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from off site and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste

pharmaceuticals on-site without a hazardous waste permit or without having interim status, provided that it complies with the following conditions:

(a) Standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals—

(1) Notification. A reverse distributor must notify the Department, using the Site Identification Form (EPA Form 8700-12), that it is a reverse distributor operating under this subpart.

(i) A reverse distributor that already has an EPA identification number must notify the Department, using the Site Identification Form (EPA Form 8700-12), that it is a reverse distributor, as defined in section 266.500, within 60 days of the effective date of this subpart, or within 60 days of becoming subject to this subpart.

(ii) A reverse distributor that does not have an EPA identification number must obtain one by notifying the Department, using the Site Identification Form (EPA Form 8700-12), that it is a reverse distributor, as defined in Section 266.500, within sixty (60) calendar days of the effective date of this subpart, or within sixty (60) calendar days of becoming subject to this subpart.

(2) Inventory by the reverse distributor. A reverse distributor must maintain a current inventory of all the potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that are accumulated on-site.

(i) A reverse distributor must inventory each potentially creditable hazardous waste pharmaceutical within thirty (30) calendar days of each waste arriving at the reverse distributor.

(ii) The inventory must include the identity (e.g., name or national drug code) and quantity of each potentially creditable hazardous waste pharmaceutical and evaluated hazardous waste pharmaceutical.

(iii) If the reverse distributor already meets the inventory requirements of this paragraph because of other regulatory requirements, such as State Board of Pharmacy regulations, the facility is not required to provide a separate inventory pursuant to this section.

(3) Evaluation by a reverse distributor that is not a manufacturer. A reverse distributor that is not a pharmaceutical manufacturer must evaluate a potentially creditable hazardous waste pharmaceutical within thirty (30) calendar days of the waste arriving at the reverse distributor to establish whether it is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment, storage, or disposal facility.

(i) A potentially creditable hazardous waste pharmaceutical that is destined for another reverse distributor is still considered a “potentially creditable hazardous waste pharmaceutical” and must be managed in accordance with paragraph (b) of this section.

(ii) A potentially creditable hazardous waste pharmaceutical that is destined for a permitted or interim status treatment, storage, or disposal facility is considered an “evaluated hazardous waste pharmaceutical” and must be managed in accordance with paragraph (c) of this section.

(4) Evaluation by a reverse distributor that is a manufacturer. A reverse distributor that is a pharmaceutical manufacturer must evaluate a potentially creditable hazardous waste pharmaceutical to verify manufacturer credit within thirty (30) calendar days of the waste arriving at the facility and following

the evaluation must manage the evaluated hazardous waste pharmaceuticals in accordance with paragraph (c) of this section.

(5) Maximum accumulation time for hazardous waste pharmaceuticals at a reverse distributor.

(i) A reverse distributor may accumulate potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals on-site for one hundred eighty (180) calendar days or less. The one hundred eighty (180) days start after the potentially creditable hazardous waste pharmaceutical has been evaluated and applies to all hazardous waste pharmaceuticals accumulated on-site, regardless of whether they are destined for another reverse distributor (i.e., potentially creditable hazardous waste pharmaceuticals) or a permitted or interim status treatment, storage, or disposal facility (i.e., evaluated hazardous waste pharmaceuticals).

(ii) Aging pharmaceuticals. Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date (i.e., aging in a holding morgue) can be accumulated for up to 180 days after the expiration date, provided that the unexpired pharmaceuticals are managed in accordance with paragraph (a) of this section and the container labeling and management standards in Section 266.510(c)(4)(i)-(vi).

(6) Security at the reverse distributor facility. A reverse distributor must prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility where potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals are kept.

(i) Examples of methods that may be used to prevent unknowing entry and minimize the possibility for unauthorized entry include, but are not limited to:

(A) A 24-hour continuous monitoring surveillance system;

(B) An artificial barrier such as a fence; or

(C) A means to control entry, such as keycard access.

(ii) If the reverse distributor already meets the security requirements of this paragraph because of other regulatory requirements, such as Drug Enforcement Administration or State Board of Pharmacy regulations, the facility is not required to provide separate security measures pursuant to this section.

(7) Contingency plan and emergency procedures at a reverse distributor. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site must prepare a contingency plan and comply with the other requirements of part 262, subpart M.

(8) Closure of a reverse distributor. When closing an area where a reverse distributor accumulates potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals, the reverse distributor must comply with Section 262.17(a)(8)(ii) and (iii).

(9) Reporting by a reverse distributor.

(i) Unauthorized waste report. A reverse distributor must submit an unauthorized waste report if the reverse distributor receives waste from off site that it is not authorized to receive (e.g., non-pharmaceutical hazardous waste, regulated medical waste). The reverse distributor must prepare and submit an unauthorized waste report to the Department within forty-five (45) calendar days after the unauthorized waste arrives at the reverse distributor and must send a copy of the unauthorized waste report to the healthcare facility (or other entity) that sent the unauthorized waste. The reverse distributor must manage

the unauthorized waste in accordance with all applicable regulations. The unauthorized waste report must be signed by the owner or operator of the reverse distributor, or its authorized representative, and contain the following information:

(A) The EPA identification number, name and address of the reverse distributor;

(B) The date the reverse distributor received the unauthorized waste;

(C) The EPA identification number, name, and address of the healthcare facility that shipped the unauthorized waste, if available;

(D) A description and the quantity of each unauthorized waste the reverse distributor received;

(E) The method of treatment, storage, or disposal for each unauthorized waste; and

(F) A brief explanation of why the waste was unauthorized, if known.

(ii) Additional reports. The Department may require reverse distributors to furnish additional reports concerning the quantities and disposition of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(10) Recordkeeping by reverse distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an inspector. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Department.

(i) A copy of its notification on file for as long as the facility is subject to this subpart;

(ii) A copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable hazardous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least three (3) years from the date the shipment arrives at the reverse distributor;

(iii) A copy of its current inventory for as long as the facility is subject to this subpart.

(b) Additional standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements in paragraph (a) of this section, for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

(1) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from a healthcare facility must send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within one hundred eighty (180) calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow paragraph (c) of this section for evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor must send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within one hundred eighty (180) calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow paragraph (c) of this section for evaluated hazardous waste pharmaceuticals.

(3) A reverse distributor must ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in accordance with Section 266.509.

(4) Recordkeeping by reverse distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an inspector for each shipment of potentially creditable hazardous waste pharmaceuticals that it initiates to another reverse distributor, for at least three (3) years from the date of shipment. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Department.

(i) The confirmation of delivery; and

(ii) The DOT shipping papers prepared in accordance with 49 CFR part 172, subpart C, if applicable.

(c) Additional standards for reverse distributors managing evaluated hazardous waste pharmaceuticals. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements of paragraph (a) of this section, for the management of evaluated hazardous waste pharmaceuticals:

(1) Accumulation area at the reverse distributor. A reverse distributor must designate an on-site accumulation area where it will accumulate evaluated hazardous waste pharmaceuticals.

(2) Inspections of on-site accumulation area. A reverse distributor must inspect its on-site accumulation area at least once every seven (7) calendar days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

(3) Personnel training at a reverse distributor. Personnel at a reverse distributor that handle evaluated hazardous waste pharmaceuticals are subject to the training requirements of Section 262.17(a)(7).

(4) Labeling and management of containers at on-site accumulation areas. A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an on-site accumulation area must:

(i) Label the containers with the words, "hazardous waste pharmaceuticals";

(ii) Ensure the containers are in good condition and managed to prevent leaks;

(iii) Use containers that are made of or lined with materials that will not react with, and are otherwise compatible with, the evaluated hazardous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;

(iv) Keep containers closed, if holding liquid or gel evaluated hazardous waste pharmaceuticals. If the liquid or gel evaluated hazardous waste pharmaceuticals are in their original, intact, sealed packaging; or repackaged, intact, sealed packaging, they are considered to meet the closed container standard;

(v) Manage any container of ignitable or reactive evaluated hazardous waste pharmaceuticals, or any container of commingled incompatible evaluated hazardous waste pharmaceuticals so that the container does not have the potential to:

(A) Generate extreme heat or pressure, fire or explosion, or violent reaction;



(B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(D) Damage the structural integrity of the container of hazardous waste pharmaceuticals; or

(E) Through other like means threaten human health or the environment; and

(vi) Accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of Section 268.3(c) (e.g., arsenic trioxide (P012)) in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.

(5) Hazardous waste numbers. Prior to shipping evaluated hazardous waste pharmaceuticals off site, all containers must be marked with the applicable hazardous waste numbers (i.e., hazardous waste codes). A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the EPA Hazardous Waste Number(s).

(6) Shipments. A reverse distributor must ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage, or disposal facility in accordance with the applicable shipping standards in Section 266.508(a) or (b).

(7) Procedures for a reverse distributor for managing rejected shipments. A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of Section 264.72 or Section 265.72 of this chapter, may accumulate the returned evaluated hazardous waste pharmaceuticals on-site for up to an additional ninety (90) calendar days in the on-site accumulation area provided the rejected or returned shipment is managed in accordance with Sections 266.510(a) and (c). Upon receipt of the returned shipment, the reverse distributor must:

(i) Sign either:

(A) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty (30) calendar days of receipt of the rejected shipment of the evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(iv) Within ninety (90) calendar days of receipt of the rejected shipment, transport, or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of Section 266.508(a) or (b).

(8) Land disposal restrictions. Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of part 268. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site must comply with the land disposal restrictions in accordance with Section 268.7(a) requirements.

(9) Reporting by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) Reporting by a reverse distributor. A reverse distributor that ships more than 1,000 kg per month of evaluated hazardous waste pharmaceuticals off-site must report to the Department in its quarterly report per Section 262.41. A reverse distributor that ships less than 1,000 kg per month of evaluated hazardous waste pharmaceuticals off-site must report to the Department in its annual declaration per Section 262.44.

(ii) Exception reporting by a reverse distributor for a missing copy of the manifest.

(A) For shipments from a reverse distributor to a designated facility.

(1) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within thirty-five (35) calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor must contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor must submit an exception report to the Department for the state in which the reverse distributor is located if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within forty-five (45) calendar days of the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter. The exception report must include:

(i) A legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

(ii) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(B) For shipments rejected by the designated facility and shipped to an alternate facility.

(1) A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within thirty-five (35) calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter must contact the transporter or the owner or operator of the alternate facility to determine the status of the hazardous waste. The thirty-five (35)-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(2) A reverse distributor must submit an exception report to the Department for the state in which the reverse distributor is located if it has not received a copy of the manifest with the signature of the owner or operator of the alternate facility within forty-five (45) calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter. The forty-five (45)-day timeframe begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste pharmaceutical shipment from the designated facility to the alternate facility. The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(10) Recordkeeping by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) A reverse distributor must keep a log (written or electronic) of the inspections of the on-site accumulation area, required by paragraph (c)(2) of this section. This log must be retained as a record for at least three (3) years from the date of the inspection.

(ii) A reverse distributor must keep a copy of each manifest signed in accordance with Section 262.23(a) for three (3) years or until it receives a signed copy from the designated facility that received the evaluated hazardous waste pharmaceutical. This signed copy must be retained as a record for at least three (3) years from the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter.

(iii) A reverse distributor must keep a copy of each quarterly report or annual declaration for at least three (3) years from the due date of the report or declaration.

(iv) A reverse distributor must keep a copy of each exception report for at least three years from the submission of the report.

(v) A reverse distributor must keep records to document personnel training, in accordance with Section 262.17(a)(7)(iv).

(vi) All records must be readily available upon request by an inspector. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Department.

(d) When a reverse distributor must have a permit. A reverse distributor is an operator of a hazardous waste treatment, storage, or disposal facility and is subject to the requirements of parts 264, 265, and the permit requirements of part 270, if the reverse distributor:

(1) Does not meet the conditions of this section;

(2) Accepts manifested hazardous waste from off site; or

(3) Treats or disposes of hazardous waste pharmaceuticals on-site.

**Revise 268.7 title and item (a) to read:**

268.7. Testing, tracking, and recordkeeping requirements for generators, reverse distributors, treaters, and disposal facilities.

(a) Requirements for generators and reverse distributors:

**Add 268.50(a)(4) and (5) to read:**

(4) A healthcare facility accumulates such wastes in containers on-site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the healthcare facility complies with the applicable requirements in Sections 266.502 and 266.503 of this chapter.

(5) A reverse distributor accumulates such wastes in containers on-site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the reverse distributor complies with Section 266.510 of this chapter.

**Revise 270.1(c)(2)(x) to read:**

(x) ~~Any transporter who moves hazardous waste only on the site of a hazardous waste generator or a permitted hazardous waste treatment, storage or disposal facility.~~ Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section 266.500. Reverse distributors are subject to regulation under part 266, subpart P for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

**Add 270.1(c)(2)(xi) to read:**

(xi) Any transporter who moves hazardous waste only on the site of a hazardous waste generator or a permitted hazardous waste treatment, storage or disposal facility.

**Revise 273.80(a) to read:**

(a) ~~Except as provided in paragraph (d) of this section,~~ Any person seeking to add a hazardous waste or a category of hazardous waste to this part may petition for a regulatory amendment under this subpart and 260.20 and 260.23.

**Add 273.80(d) to read:**

(d) Hazardous waste pharmaceuticals are regulated by part 266, subpart P and may not be added as a category of hazardous waste for management under this part.

## **ATTACHMENT B**

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

**Statutory Authority: 1976 Code Sections 44-56-10 et seq.**

#### **Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79, Hazardous Waste Management Regulations. Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on May 26, 2020, the close of the Notice of Drafting comment period.

#### **Synopsis:**

Pursuant to R.61-79, Hazardous Waste Management Regulations, the Department has the authority to manage hazardous wastes in the state of South Carolina. The Department proposes adopting the rule titled “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine,” published on February 22, 2019, at 84 FR 5816-5950. This rule, published in the Federal Register by the Environmental Protection Agency (“EPA”), creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the generator regulations in Part 262 of R.61-79. To better protect drinking and surface water, this rule establishes prohibitions on facilities from disposing of hazardous waste pharmaceuticals down the drain. This regulation also maintains the household hazardous waste exemption for pharmaceuticals collected during pharmaceutical take-back programs and events, while ensuring their proper disposal and codifies EPA’s prior policy on the regulatory status of nonprescription pharmaceuticals going through reverse logistics. In addition, under this new rule, U.S. Food and Drug Administration-approved, over-the-counter nicotine replacement therapies (i.e., nicotine patches, gums and lozenges) will no longer be considered hazardous waste when discarded. This final rule also establishes a policy on the regulatory status of unsold retail items that are not pharmaceuticals and are managed via reverse logistics.

Pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), this proposed amendment is exempt from General Assembly review because it is necessary to maintain compliance with federal law.

(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Land and Waste Management

**Re: Notice of Proposed Regulation Amending R.61-79, *Hazardous Waste Management Regulations***

## I. Introduction

The Bureau of Land and Waste Management (“Bureau”) proposes the attached Notice of Proposed Regulation amending R.61-79, *Hazardous Waste Management Regulations*, for publication in the August 28, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 *et seq.*, which authorizes the Department of Health and Environmental Control (“Department”) to promulgate hazardous waste management regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## II. Facts

1. The Bureau proposes amending R.61-79, *Hazardous Waste Management Regulations*, to adopt Environmental Protection Agency (“EPA”) interim final rule “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the Resource Conservation and Recovery Act (“RCRA”) hazardous waste requirements for entities, including but not limited to, automobile dealerships, automotive salvage and scrap yards, independent repair facilities, and collision centers that collect airbag modules and inflators (“airbag waste”) from automobiles as long as certain conditions are met. This rule enables expedited removal of defective airbag inflators.
2. The Bureau also proposes amending R.61-79, *Hazardous Waste Management Regulations*, to adopt EPA final rule “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal RCRA regulations. Adopting the rule will reduce regulatory burdens on retail stores and other establishments that generate, manage, and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.
3. The EPA has given authorized states, including South Carolina, the discretion to adopt these rules, as they will make existing standards less stringent and provide more flexibility to the regulated community.
4. The proposed amendments also include changes such as corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.
5. The Bureau had a Notice of Drafting published in the April 24, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Bureau received no comments during the public comment period.

6. The Bureau published a summary of the proposed amendments on the Department's Regulation Development Update webpage. The Bureau provided notice to interested parties via an email list on April 24, 2020. The Bureau maintains a web site (<https://www.scdhec.gov/about-dhec/laws-regulations-regulatory-updates/hazardous-waste-management-regulations-update-status>) which provides more detail on the proposed amendments.

7. Appropriate Department staff conducted an internal review of the proposed amendments on June 3, 2020.

### III. Request for Approval

The Bureau respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.



Henry Porter  
Chief  
Bureau of Land and Waste Management



Myra Reece  
Director  
Environmental Affairs

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the April 24, 2020, *State Register*

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR R.61-79, *Hazardous Waste Management Regulations***

**August 13, 2020**

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

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

**Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79 to adopt two Environmental Protection Agency (“EPA”) rules published in the Federal Register. The EPA has given authorized states, including South Carolina, the discretion to adopt these rules as they will make existing standards less stringent and provide more flexibility to the regulated community. The “Safe Management of Recalled Airbags” interim final rule, published on November 30, 2018, at 83 FR 61552-61563 will create a conditional exemption from Resource Conservation and Recovery Act (“RCRA”) requirements for certain entities that collect airbag waste from automobiles. The “Universal Waste Regulations: Addition of Aerosol Cans” final rule published on December 9, 2019, at 84 FR 67202-67220 will reduce regulatory burdens on businesses that generate, manage, and dispose of aerosol cans. The Department also proposes corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

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

The Department had a Notice of Drafting published in the April 24, 2020, *South Carolina State Register*.

**Section-by-Section Discussion of Proposed Amendments:**

260.10. Add the following definitions: “Aerosol can,” “Airbag waste,” “Airbag waste handler,” and “Airbag waste collection facility.”

260.10. Revise the definition of “Universal waste” to include aerosol can as described in section 273.6.

260.10(2)(i). Insert language into section (i) to ensure that those who treat, dispose or recycle universal waste under the provisions of parts 273.13(e) and 273.33(e) are considered Universal Waste Handlers.

261. Table of Contents: Insert Subparts I through CC.

261.4(h) and (i). Add and reserve.

261.4(j)(1). Add language that allows airbag waste that is at an airbag waste handler or is being transported to a collection facility to not be subject to parts 262-268, 270, or 124 provided that certain requirements are met.



261.4(j)(2). Add language that states that airbag waste that is exempt from regulation per the conditions in 261.4(j)(1) are subject to all applicable regulations arrives at an airbag collection facility or designated facility and that the receiving facility is now considered the hazardous waste generator and must comply with all requirements.

261.4(j)(3). Add language that prohibits reuse in vehicles of defective airbag modules subject to a recall under the National Highway Traffic Safety Administration and that the Department considers the practice to be sham recycling.

261.6(d). Add an “s” to “part” for grammatical clarity.

261.9. Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

261.31(b)(4)(ii). Delete language referring to state regulatory authority.

262.13(f)(1)(iii). Add language that states a very small quantity generator’s mixed waste is subject to R.61-107.279.

262.14(a)(5)(ix) through (xi). Add and reserve (ix) and (x); add language at (xi) that states where small quantity generators of hazardous wastes must send airbag waste.

262.21(a)(1). Change “Office of Solid Waste” to “Office of Resource Conservation and Recovery.”

262.21(b). Change “Office of Solid Waste” to “Office of Resource Conservation and Recovery.”

264.1(g)(11). Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

264.119(b)(1)(ii). Remove the reference to R.61-79.265.

264.151(a)(2). Insert a reference to 265.145(a).

265.1(c)(14). Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

265.195(a). Remove sections (1) through (4), and in the Note remove “and Regional Administrator.”

268.1(f). Insert language that clarifies universal waste handlers and universal waste transporters that handle aerosol cans are regulated under part 273, and therefore not part 268.7 and 268.50.

270.1(c)(2)(viii). Insert language that adds universal waste handlers and universal waste transporters that manage aerosol cans to those that do not need a RCRA permit.

270.19(e). Revise the reference to 63.1210(b) to 63.1210(d).

273.1(a). Insert language that includes aerosol cans for the list of substances regulated in part 273.

273.3(b)(2). Amend to state that aerosol cans containing pesticides may be managed as aerosol can universal waste even if they do not meet the conditions set forth in paragraph (a) of 273.3.

273.6. Add language that establishes criteria for which aerosol cans are applicable under this part and when a used or unused aerosol can be considered waste.

273.9. Add the following definition: “Aerosol can.”

273.9. Revise the definition of “Large Quantity Handler of Universal Waste” to include aerosol cans.

273.9. Revise the numbering in the definition of “Pesticide” so that instead of (a), (b), and (c), it reads (1), (2), and (3).

273.9. Revise the definition of “Small Quantity Handler of Universal Waste” to include aerosol cans.

273.9. Add language that adds aerosol cans to the definition of “Universal Waste.”

273.9. Add language under the definition of “Universal Waste Handler” that defines a person who treats, disposes of, or recycles under the provisions of 273.13(e) or 273.33(e) is a universal waste handler.

273.13(c)(2)(iii) and (iv). Revise language to update applicability requirements.

273.13(e). Add new language that establishes standards for small quantity handlers of universal waste that must be met if they are handling universal aerosol can waste.

273.14(f). Add new language that establishes label requirements for universal waste aerosol cans and containers where aerosol cans are contained.

273.32(b)(4). Revise the language so that aerosol cans are included in the list of examples of universal waste.

273.33(c)(2)(iii) and (iv). Revise language to update applicability requirements.

277.33(e). Add new language that establishes standards for large quantity handlers of universal waste that must be met if they are handling universal aerosol can waste.

273.34(f). Add new language that establishes label requirements for universal waste aerosol cans and containers where aerosol cans are contained.

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

Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its November 12, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

## **Preliminary Fiscal Impact Statement**

The proposed amendments have no substantial fiscal or economic impact on the state or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

## **Statement of Need and Reasonableness**

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

**DESCRIPTION OF REGULATION:** 61-79, Hazardous Waste Management Regulations

**Purpose:** The purpose of these amendments is to realize the benefits of and maintain state consistency with the following EPA regulations published in the Federal Register: “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220, and “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563.

**Legal Authority:** 1976 Code Sections 44-56-10 et seq.

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

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

The Department proposes amending R.61-79, Hazardous Waste Management Regulations, to adopt EPA interim final rule “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the RCRA hazardous waste requirements for entities, including but not limited to, automobile dealerships, automotive salvage and scrap yards, independent repair facilities, and collision centers that collect airbag modules and inflators (“airbag waste”) from automobiles as long as certain conditions are met. This rule enables expedited removal of defective airbag inflators.

The Department further proposes amending R.61-79 to adopt the EPA final rule “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal RCRA regulations. Adopting the rule will reduce regulatory burdens on retail stores and other establishments that generate, manage, and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.

## **DETERMINATION OF COSTS AND BENEFITS:**

There is no anticipated increased cost to the state or its political subdivisions resulting from this proposed revision. The EPA estimates that the “Safe Management of Recalled Airbags” interim final rule will result

in industry savings between \$1.7 million and \$13 million (Federal Register, Vol 83, No. 231, page 61561). Similarly, the EPA estimates annual industry cost savings for the “Universal Waste Regulations: Addition of Aerosol Cans” final rule to be between \$5.3 million and \$47.8 million (Federal Register Vol. 84, No. 236, page 67203).

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates regarding costs to the state or its political subdivisions.

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

The proposed revisions to R.61-79 will provide continued protection of the environment and public health, as indicated above.

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

If the regulation is not implemented, there will be detrimental effects on the environment and public health because South Carolina would not be implementing or realizing the benefits of the EPA’s “Universal Waste Regulations: Addition of Aerosol Cans” final rule and the “Safe Management of Recalled Airbags” interim final rule described above.

**Statement of Rationale:**

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

The Department proposes amending R.61-79 to adopt two EPA rules published in the Federal Register. The EPA has given authorized states, including South Carolina, the discretion to adopt these rules as they will make existing standards less stringent and provide more flexibility to the regulated community. The “Safe Management of Recalled Airbags” interim final rule, published on November 30, 2018, at 83 FR 61552-61563 will create a conditional exemption from RCRA requirements for certain entities that collect airbag waste from automobiles. The “Universal Waste Regulations: Addition of Aerosol Cans” final rule published on December 9, 2019, at 84 FR 67202-67220 will reduce regulatory burdens on businesses that generate, manage, and dispose of aerosol cans.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Ann. Section 44-56-30

**Add the following definitions in alphabetical order to 260.10 to read:**

“Aerosol can” means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

“Airbag waste” means any hazardous waste airbag modules or hazardous waste airbag inflators.

“Airbag waste collection facility” means any facility that receives airbag waste from airbag handlers subject to regulation under 261.4(j) of this chapter, and accumulates the waste for more than ten (10) days.

“Airbag waste handler” means any person, by site, who generates airbag waste that is subject to regulation under this chapter.

**Revise 260.10 to read:**

"Universal Waste" means any of the following hazardous wastes that are managed under the universal waste requirements of 273: ~~(5/96)~~

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Mercury-containing equipment as described in 273.4; ~~and~~
- (4) Lamps as described in 273.5 of this chapter; ~~and~~
- (5) Aerosol cans as described in 273.6 of this chapter.

**Revise 260.10 “Universal waste handler” (2)(i) to read:**

(i) A person who treats (except under the provisions of ~~R.61-79-273.13~~ (a) or (c), or 273.33 (a) or (c)), disposes of, or recycles (except under the provisions of 273.13(e) or 273.33(e)) universal waste; or

**Add Subparts I through CC to R.61-79.261. Table of Contents to read:**

SUBPART I: Use and Management of Containers

261.170. Applicability.

261.171. Condition of containers.

261.172. Compatibility of hazardous secondary materials with containers.

261.173. Management of containers.

261.175. Containment.

261.176. Special requirements for ignitable or reactive hazardous secondary material.

261.177. Special requirements for incompatible materials.

261.179. Air emission standards.

SUBPART J: Tank Systems

261.190. Applicability.

261.191. Assessment of existing tank system’s integrity.

261.192. [Reserved]

261.193. Containment and detection of releases.

261.194. General operating requirements.

261.195. [Reserved]

261.196. Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

261.197. Termination of remanufacturing exclusion.

261.198. Special requirements for ignitable or reactive materials.

261.199. Special requirements for incompatible materials.

261.200. Air emission standards.

SUBPART L: [Reserved]

SUBPART M: Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials

261.400. Applicability.

261.410. Preparedness and prevention.

261.411. Emergency procedures for facilities generating or accumulating 6000 kilograms or less of hazardous secondary material.

261.420. Contingency planning and emergency procedures for facilities generating or accumulating more than 6000 kilograms of hazardous secondary material.

SUBPART N-Z: [Reserved]

SUBPART AA: Air Emission Standards for Process Vents

261.1030. Applicability.

261.1031. Definitions.

261.1032. Standards: Process vents.

261.1033. Standards: Closed-vent systems and control devices.

261.1034. Test methods and procedures.

261.1035. Recordkeeping requirements.

261.1036. [Reserved]

261.1037. [Reserved]

261.1038. [Reserved]

261.1039. [Reserved]

261.1040. [Reserved]

261.1041. [Reserved]

261.1042. [Reserved]

261.1043. [Reserved]

261.1044. [Reserved]

261.1045. [Reserved]

261.1046. [Reserved]

261.1047. [Reserved]

261.1048. [Reserved]

261.1049. [Reserved]

SUBPART BB: Air Emission Standards for Equipment Leaks

261.1050. Applicability.

261.1051. Definitions.

261.1052. Standards: Pumps in light liquid service.

261.1053. Standards: Compressors.

261.1054. Standards: Pressure relief devices in gas/vapor service.

261.1055. Standards: Sampling connection systems.

261.1056. Standards: Open-ended valves or lines.

261.1057. Standards: Valves in gas/vapor service or in light liquid service.

261.1058. Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.

261.1059. Standards: Delay of repair.

261.1060. Standards: Closed-vent systems and control devices.

261.1061. Alternative standards for valves in gas/vapor service or in light liquid service: percentage of valves allowed to leak.

261.1062. Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair.

261.1063. Test methods and procedures.

261.1064. Recordkeeping requirements.

261.1065. [Reserved]

261.1066. [Reserved]

261.1067. [Reserved]

261.1068. [Reserved]

261.1069. [Reserved]

261.1070. [Reserved]

261.1071. [Reserved]

261.1072. [Reserved]

261.1073. [Reserved]

261.1074. [Reserved]

261.1075. [Reserved]

261.1076. [Reserved]

261.1077. [Reserved]

261.1078. [Reserved]

261.1079. [Reserved]

#### SUBPART CC: Air Emission Standards for Tanks and Containers

261.1080. Applicability.

261.1081. Definitions.

261.1082. Standards: General.

261.1083. Material determination procedures.

261.1084. Standards: Tanks.

261.1085. [Reserved]

261.1086. Standards: Containers.

261.1087. Standards: Closed-vent systems and control devices.

261.1088. Inspection and monitoring requirements.

261.1089. Recordkeeping requirements.

261.1090. [Reserved]

#### **Add and reserve 261.4(h) and (i) to read:**

(h) [Reserved]

(i) [Reserved]

#### **Add 261.4(j) to read:**

(j) (1) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under parts 124, 262 through parts 268, or 270 of this chapter, and is not subject to the notification requirements of section 3010 of RCRA provided that:

(i) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(ii) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled “Airbag Waste – Do Not Reuse”;

(iii) The airbag waste is sent directly to either:

(A) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

(B) A designated facility as defined in 260.10;

(iv) The transport of the airbag waste complies with all applicable U.S. Department of Transportation (DOT) regulations in 49 CFR part 171 through 180 during transit;

(v) The airbag waste handler maintains at the handler facility for no less than three (3) years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received; and the date which it was received. Shipping records and confirmations of receipt must be made available for inspection and may be satisfied by routine business records (e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

(2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of part 262.

(3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under 261.2(g).

**Revise 261.6(d) to read:**

(d) Owners or operators of facilities subject to RCRA permitting requirements with hazardous waste management units that recycle hazardous wastes are subject to the requirements of subparts AA and BB of parts 264 or 265 of this chapter.

**Revise 261.9 to read:**

The wastes listed in this section are exempt from regulation under parts 262 through 270 except as specified in part 273 and, therefore, are not fully regulated as hazardous waste. The wastes listed in this section are subject to regulation under 273: ~~(5/96)~~

- (a) Batteries as described in 273.2;
- (b) Pesticides as described in 273.3;
- (c) Mercury-containing equipment as described in 273.4; ~~and~~
- (d) Lamps as described in 273.5; and
- (e) Aerosol cans as described in 273.6 of this chapter.



**Revise 261.31(b)(4)(i) to read:**

(i). Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

**Revise 261.31(b)(4)(ii) to read:**

(ii) Generators must maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include: the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on-site for no less than three (3) years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the Department ~~or the state regulatory authority~~.

**Add 262.13(f)(1)(iii) to read:**

\_\_\_\_\_ (iii) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to R. 61-107.279. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under R.61-107.279.

**Add 262.14(a)(5)(ix) through (xi) to read:**

\_\_\_\_\_ (ix) [Reserved]

\_\_\_\_\_ (x) [Reserved]

\_\_\_\_\_ (xi) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of 261.4(j) of this chapter.

**Revise 262.21(a)(1) to read:**

(1) A registrant may not print, or have printed, the manifest for use of distribution unless it has received approval from the EPA Director of ~~Office of Solid Waste~~ the Office of Resource Conservation and Recovery to do so under paragraphs (c) and (e) of this section.

**Revise 262.21(b) to read:**

(b) A registrant must submit an initial application to the EPA Director of the Office of ~~Solid Waste~~ Resource Conservation and Recovery that contains the following information:

**Revise 264.1(g)(11) to read:**

(11) Universal waste handlers and universal waste transporters (as defined in R.61-79.260.10) handling the wastes listed below. These handlers are subject to regulation under R.61-79.273, when handling the below listed universal wastes. ~~(added 5/96)~~

(i) Batteries as described in ~~R.61-79.273.2;~~

(ii) Pesticides as described in ~~R.61-79.273.3; and~~

(iii) Mercury-containing equipment as described in 273.4; ~~and~~

(iv) Lamps as described in 273.5; and

(v) Aerosol cans as described in 273.6 of this chapter.

**Revise 264.119(b)(1)(ii) to read:**

(ii) Its use is restricted under R.61-79.264 ~~and R.61-79.265~~ Subpart G; and

**Revise 264.151(a)(2) to read:**

(2) Certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in 264.143(a) and 264.145(a) or 265.143(a) and 265.145(a). This document must be worded as noted in 264.151 Appendix A(2) except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. ~~(amended 11/90)~~

**Revise 265.1(c)(14) to read:**

(14) Universal waste handlers and universal waste transporters (as defined in R.61-79.260.10) handling the wastes listed below. These handlers are subject to regulation under R.61-79.273, when handling the below listed universal wastes. ~~(added 5/96)~~

(i) Batteries as described in ~~R.61-79.273.2~~;

(ii) Pesticides as described in 273.3~~;~~

(iii) Mercury-containing equipment as described in 273.4; ~~and~~

(iv) Lamps as described in 273.5~~;~~ and

(v) Aerosol cans as described in 273.6 of this chapter.

**Revise 265.195(a) to read:**

(a) The owner or operator must inspect, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

~~(1) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;~~

~~(2) The above ground portions of the tank system, if any, to detect corrosion or releases of waste;~~

~~(3) Data gathered from monitoring equipment and leak detection equipment (e.g., pressure and temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and~~

~~(4) The construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation);~~

Note: Section 265.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 265.196 requires the owner or operator to notify the Department ~~and Regional Administrator~~ within 24 hours of confirming a release. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release. ~~(revised 12/92) paragraphs (a) and (b) of this section.~~

**Revise 268.1(f) to read:**

(f) Universal waste handlers and universal waste transporters (as defined in 260.10) are exempt from 268.7 and 268.50 for the hazardous wastes listed below. These handlers are subject to regulation under part 273. ~~(5/96)~~

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Mercury-containing equipment as described in 273.4; ~~and~~
- (4) Lamps as described in 273.5-; and
- (5) Aerosol cans as described in 273.6 of this chapter.

**Revise 270.1(c)(2)(viii) to read:**

(viii) Universal waste handlers and universal waste transporters (as defined in R.61-79.260.10) managing the wastes listed below. These handlers are subject to regulation under R.61-79.273. ~~(revised 5/96)~~

- (A) Batteries as described in ~~R.61-79.273.2~~;
- (B) Pesticides as described in 273.3;
- (C) Mercury-containing equipment as described in 273.4; ~~and~~
- (D) Lamps as described in 273.5-; and
- (E) Aerosol cans as described in 273.6 of this chapter.

**Revise 270.19(e) to read:**

(e) When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in part 63, Subpart EEE, (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance) under 63.1207(j) and 63.1210(~~bd~~) documenting compliance with all applicable requirements of Part 63, subpart EEE, the requirements do not apply, except those provisions the Department determines are necessary to ensure compliance with 264.345(a) and 264.345(c) if you elect to comply with 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Department may apply the provisions, on a case-by-case basis, for purposes of information collection in accordance with 270.10(k), 270.10(l), 270.32(b)(2), and 270.32(b)(3).

**Revise R.61-79.273. Table of Contents to read:**

273.6. Applicability—Aerosol Cans.

**Revise 273.1(a) to read:**

- (a) This part establishes requirements for managing the following:
  - (1) Batteries as described in 273.2;
  - (2) Pesticides as described in ~~R.61-79.273.3~~;
  - (3) Mercury-containing equipment as described in 273.4; ~~and~~

- (4) Lamps as described in 273.5; and
- (5) Aerosol cans as described in 273.6 of this chapter.

**Revise 273.3(b)(2) to read:**

(2) Pesticides not meeting the conditions set forth in paragraph (a) of this section. These pesticides must be managed in compliance with the hazardous waste regulations in parts 260 through 272, except that aerosol cans as defined in 273.9 that contain pesticides may be managed as aerosol can universal waste under 273.13(e) or 273.33(e);

**Add 273.6 to read:**

**273.6 Applicability—Aerosol Cans.**

(a) Aerosol cans covered under this part. The requirements of this part apply to persons managing aerosol cans, as described in 273.9, except those listed in paragraph (b) of this section.

(b) Aerosol cans not covered under this part. The requirements of this part do not apply to persons managing the following types of aerosol cans:

(1) Aerosol cans that are not yet waste under part 261 of this chapter. Paragraph (c) of this section describes when an aerosol can becomes a waste;

(2) Aerosol cans that are not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in part 261 subpart C of this chapter or the aerosol can contains a substance that is listed in part 261 subpart D of this chapter; and

(3) Aerosol cans that meet the standard for empty containers under 261.7 of this chapter.

(c) Generation of waste aerosol cans.

(1) A used aerosol can becomes a waste on the date it is discarded.

(2) An unused aerosol can becomes a waste on the date the handler decides to discard it.

**Add the following definition in alphabetical order to 273.9 to read:**

Aerosol can means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

**Revise 273.9 “Large quantity handler of universal waste” to read:**

Large Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, ~~or~~ lamps, or aerosol cans, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000-kilogram limit is met or exceeded.

**Revise 273.9 “Pesticide” to read:**

Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (a1) is a new animal drug under FFDCA section 201(w); or

(b~~2~~) is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or

(e~~3~~) is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (a~~1~~) or (b~~2~~) of this ~~definition section~~.

**Revise 273.9 “Small quantity handler of universal waste” to read:**

Small Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, ~~or~~ lamps, or aerosol cans, calculated collectively) at any time.

**Revise 273.9 “Universal waste” to read:**

Universal Waste means any of the following hazardous wastes that are subject to the universal waste requirements of part 273:

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Mercury-containing equipment as described in 273.4; ~~and~~
- (4) Lamps as described in 273.5; and
- (5) Aerosol cans as described in 273.6 of this chapter.

**Revise 273.9 “Universal waste handler” to read:**

Universal Waste Handler:

(a~~1~~) Means:

- (i) A generator (as defined in this section) of universal waste; or
- (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(b~~2~~) Does not mean:

- (i) A person who treats (except under the provisions of 273.13(a) or (c), or 273.33(a) or (c)), disposes of, or recycles (except under the provisions of 273.13(e) or 273.33(e)) universal waste; or
- (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

**Revise 273.13(c)(2)(iii) and (iv) to read:**

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that ~~meets the requirements of 262.34~~ is subject to all applicable requirements of parts 260 through 272; (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that ~~meets the requirements of 262.34~~ is subject to all applicable requirements of parts 260 through 272;

**Add 273.13(e) to read:**

(e) Aerosol cans. A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

(2) Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of paragraph (e)(4) of this section.

(3) A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type;

(ii) Mixing intact cans in one container;

(iii) Removing actuators to reduce the risk of accidental release; and

(4) A small quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(ii) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer's specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(iii) Ensure that puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated area.

(iv) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of 262.14, 262.15, 262.16, or 262.17.

(v) Conduct a hazardous waste determination on the contents of the emptied aerosol can per 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to part 262.

(vi) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.

(vii) A written procedure must be in place in the event of a spill or leak and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

**Add 273.14(f) to read:**

(f) Universal waste aerosol cans (i.e., each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste—Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s).”

**Revise 273.32(b)(4) to read:**

(4) A list of all the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing equipment, ~~and~~ lamps, and aerosol cans); and

**Revise 273.33(c)(2)(iii) and (iv) to read:**

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that ~~meets the requirements of 262.34~~ is subject to all applicable requirements of parts 260 through 272; (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that ~~meets the requirements of 262.34~~ is subject to all applicable requirements of parts 260 through 272;

**Add 273.33(e) to read:**

(e) Aerosol cans. A large quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

(2) Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of paragraph (e)(4) of this section.

(3) A large quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type;

(ii) Mixing intact cans in one container;

(iii) Removing actuators to reduce the risk of accidental release; and

(4) A large quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(ii) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer’s specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(iii) Ensure that puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated area.

(iv) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of 262.14, 262.15, 262.16, or 262.17.

(v) Conduct a hazardous waste determination on the contents of the emptied aerosol can per 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to part 262.

(vi) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.

(vii) A written procedure must be in place in the event of a spill or leak and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

**Add 273.34(f) to read:**

(f) Universal waste aerosol cans (i.e., each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste—Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s).”



## ATTACHMENT B

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

#### **Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79, Hazardous Waste Management Regulations. Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on May 26, 2020, the close of the Notice of Drafting comment period.

#### **Synopsis:**

Pursuant to R.61-79, Hazardous Waste Management Regulations, the Department has the authority to manage hazardous wastes in the state of South Carolina. The Department proposes amending R. 61-79 to adopt two final rules published by the United States Environmental Protection Agency (“EPA”). Because these two rules make standards less stringent than the standards authorized states have been enforcing, the EPA has made adoption optional. The two final rules are summarized as follows:

1. The Department proposes adopting the rule titled “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the Resource Conservation and Recovery Act (“RCRA”) hazardous waste requirements for entities, including automobile dealerships, automotive salvage and scrap yards, independent repair facilities and collision centers, that collect airbag modules and inflators (“airbag waste”) from automobiles as long as certain conditions are met. This rule will help facilitate a more expedited removal of defective airbag inflators.
2. The Department proposes adopting the rule titled “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (“RCRA”) regulations. This change is expected to reduce regulatory burdens for retail stores and other establishments that generate, manage and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.

The Department may also include changes such as corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

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

(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Air Quality

**Re: Notice of Proposed Regulation Amending Regulation 61-62, *Air Pollution Control Regulations and Standards*.**

## I. Introduction

The Bureau of Air Quality (Bureau) proposes the attached Notice of Proposed Regulation amending R.61-62, *Air Pollution Control Regulations and Standards*, for publication in the August 28, 2020, *South Carolina State Register (State Register)*. Legal authority for these amendments resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.* (Pollution Control Act), which authorizes the Department to adopt emission control regulations, standards, and limitations, and take all actions necessary or appropriate to secure to the state the benefits of federal air pollution control laws. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal air pollution control laws.

## II. Facts

1. Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

2. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412; and Chemical Accident Prevention Provisions mandated by 42 U.S.C. Section 7412(r).

3. The Department proposes amending R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; R.61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; and R.61-62.68, *Chemical Accident Prevention Provisions*, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

4. The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

5. The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These

implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

6. The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling and overall improvement of the text of R.61-62 as necessary.

7. The Bureau held stakeholder meetings concerning South Carolina's implementation of the ACE rule on October 7, 2019, October 21, 2019, February 10, 2020, February 24, 2020, and June 15, 2020. Additionally, the Bureau provided the draft amendments to the affected facilities subject to R.61-62.60, Subpart UUUUa and external stakeholders for their review. The Bureau held stakeholder meetings for affected facilities subject to R.61-62.68, *Chemical Accident Prevention Provisions*, following EPA's initial proposal to amend 40 CFR Part 68. Additionally, the Bureau provided the final federal amendments to 40 CFR Part 68 to affected facilities following the promulgation date.

8. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Bureau also had the Notice of Drafting published on the Department's Regulatory Information website in the *DHEC Monthly Regulation Development Update*. The Bureau sent a copy of the Notice of Drafting to interested stakeholders via Department email list on February 28, 2020. The Department received no public comments by the March 30, 2020, close of the public comment period.

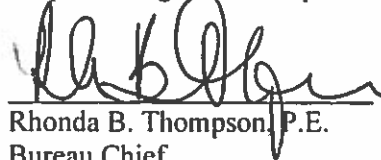
9. Appropriate Department staff conducted an internal review of the proposed amendments on June 18, 2020.

10. South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

11. In accordance with S.C. Code Section 1-23-120(H)(1), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

### III. Request for Approval

The Bureau of Air Quality respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.



Rhonda B. Thompson, P.E.  
Bureau Chief  
Bureau of Air Quality



Myra C. Reece  
Director  
Environmental Affairs

Attachments:

A. Notice of Proposed Regulation

B. Notice of Drafting published in the February 28, 2020, *State Register*

## ATTACHMENT A

### STATE REGISTER NOTICE OF PROPOSED REGULATION FOR R. 61-62, AIR POLLUTION CONTROL REGULATIONS AND STANDARDS

August 13, 2020

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

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

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards.

#### **Preamble:**

Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department of Health and Environmental Control (Department) must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61-62.68, Chemical Accident Prevention Provisions, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling and overall improvement of the text of R.61-62 as necessary.

South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

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

#### Section-by-Section Discussion of Proposed Amendments:

#### **Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards**

Amended the titles of Subparts QQQQ and TTTT to strike the capitalized "For" and replace with lowercase "for", and amended the title of Subpart QQQQ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.60, Subpart B, "Adoption and Submittal of State Plans for Designated Facilities":  
Subpart B is deleted in its entirety for clarity and compliance with federal law.

Regulation 61-62.60, Subpart Cf, "Emission Guidelines for Municipal Solid Waste Landfills":  
The table is amended to incorporate federal revisions at 84 FR 44547, August 26, 2019, by reference.

Regulation 61-62.60, Subpart CCCC "Standards of Performance for Commercial and Industrial Solid Waste Incineration Units":  
The table is amended to incorporate federal revisions at 84 FR 15846, April 16, 2019, by reference.

Regulation 61-62.60 Subpart UUUUa "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units":  
Subpart UUUUa is added to comply with newly promulgated federal regulations at 84 FR 32520, July 8, 2019.

#### **Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories**

Amended titles of Subparts JJJJ, KKKKK, and CCCCCC to strike the capitalized "For" and replace with lowercase "for", and amended the title for Subpart JJJJ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.63, Subpart A, "General Provisions":  
The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019; 84 FR 7682, March 4, 2019; and 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart HHHH, “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”:

The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019, by reference.

Regulation 61-62.63, Subpart NNNN, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart OOOO, “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart QQQQ, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”:

The table is amended to incorporate federal revisions at 84 FR 7682, March 4, 2019, by reference.

Regulation 61-62.63, Subpart RRRR, “National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart TTTT, “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”:

The table is amended to incorporate federal revisions at 84 FR 3308, February 12, 2019, by reference.

Regulation 61-62.63, Subpart KKKKK, “National Emission Standards for Hazardous Air Pollutants for Clay Ceramics”:

The table is amended to incorporate federal revisions at 84 FR 58601, November 1, 2019, by reference.

Regulation 61-62.63, Subpart QQQQQ, “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”:

The table is amended to incorporate federal revisions at 84 FR 2742, February 8, 2019, by reference.

### **Regulation 61-62.68, Chemical Accident Prevention Provisions**

Amended codification and internal citations throughout to update alpha-numeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual, and to reflect repositioning of various provisions for improved organization and clarity.

Amended throughout to strike the abbreviations “Sec.” and “Secs.”, and replace them with the word “Sections” to ensure internal consistency.

Amended throughout to change capitalization of “section” to “Section”, “subpart” to “Subpart”, and “parts” to “Parts” for improved organization and clarity and to ensure internal consistency.

Amended tab formatting to ensure codification is consistent with the 2014 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.68, Section 68.1, Scope:

Section 68.1 is amended to strike the phrase “This part” and add the phrase “Regulation 61-62.68”, and to add the phrase “Clean Air” to the word “Act” for internal consistency and clarification.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68” for internal consistency, to revise codification and citations in alpha-numeric order, and to format the defined terms in bold font and strike quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to insert 68.3(c), (j), and (t) in alpha-numeric order to add definitions for “Administrator”, “CBI”, and “LEPC”, to ensure consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(a) is amended to strike the word “Release” and replace with lowercase word “release” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(mm) is recodified (o) to strike the definition for “USDOT” and replace with “DOT” in alpha-numeric order for consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(o) is recodified (q), and former paragraph 68.3(u) is recodified (z) and repositioned in alpha-numeric order to reflect codification changes.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(gg) is amended to add a hyphen between “on” and “site” to correct a typographical error.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(kk) is amended to add the word “Section” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(nn) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(oo) is amended to strike the sentence “The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part.” and reposition this sentence following the first sentence, for consistency with the federal regulation. The repositioned sentence is amended to replace the phrase “of this part” with the phrase “of Regulation 61-62.68” for clarity and consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(pp) is amended to add the word “Section”, and to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Definition for “Retail facility” is codified (mm) and repositioned in alpha-numeric order to reflect codification and formatting changes.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a) is amended to strike the word “An” and add “Except as provided in paragraphs (b) though (f) of this section, an” for consistency with the federal regulation, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.



Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(2) is amended to strike the word “or” after the semicolon for correct codification.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(3) is amended to strike the period and add a semicolon and the word “or” after the semicolon for correct codification.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(4) is added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through (f) are recodified 68.10(g) through (k) for consistency with the federal regulation, and the internal citations in paragraphs 68.10(h) and (i) are amended to reflect repositioning of the paragraphs for consistency.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through 68.10(f), and subparagraphs 68.10(f)(1) through 68.10(f)(4), are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(g)(2) is amended to strike the zero in the citation “Section 68.30” to correct a typographical error.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(k) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(a) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b) is amended to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(2) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(4) is amended to strike the words “Section” and “Sec.” and replace both with the phrase “40 CFR” for clarity and consistency, and to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c) is amended to recodify the internal reference for consistency, and to add subparagraph (c)(4) to comply with the federal regulation. Former subparagraphs 68.12(c)(4) and (c)(5) are recodified 68.12(c)(5) and (c)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c)(5) (former paragraph 68.12(c)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, and amended the internal citation to strike the number “95” and replace with the number “96” to correct a typographical error.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d) is amended to recodify the internal reference for consistency, and to add subparagraph (d)(4) to comply with the federal regulation. Former subparagraphs (d)(4) and (d)(5) are recodified (d)(5) and (d)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d)(5) (former paragraph 68.12(d)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, amended the internal citation to correct a typographical error, and to strike the phrase “of this part” for consistency and clarity.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(a)(1) is amended to strike the word “Material” before the phrase “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(b) is amended to remove capitalization for consistency.

Regulation 61-62.68, Section 68.56, Maintenance:

Paragraph 68.56(d) is amended to strike the symbol “=” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.58, Compliance audits:

Paragraph 68.58(a) is amended to strike the phrase “the rule” and add the phrase “this Subpart” for consistency with the federal regulation and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Section 68.60 is amended to insert paragraph 68.60(c) in alpha-numeric order for consistency with the federal regulation. Former paragraphs 68.60(c) through 68.60(f) are recodified 68.60(d) through 68.60(g) for consistency and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(a) is amended to strike the phrase “of a regulated substance” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(d) (former paragraph 68.60(c)) is amended to strike the word “summary” and replace with the word “report” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(g) (former paragraph 68.60(f)) is amended to add the word “incident,” and strike the word “summaries” and replace it with the word “reports” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(a) is amended to strike the phrase “In accordance with the schedule set forth in Section 68.67, the” and replace with “The” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(b) is amended to strike the word “Material” before “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:  
Paragraph 68.67(c)(2) is amended to strike the period and replace with a semicolon for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:  
Paragraph 68.67(d) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:  
Paragraph 68.67(f) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.73, Mechanical integrity:  
Paragraph 68.73(d)(3) is amended to strike the symbol “=” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.79, Compliance audits:  
Paragraph 68.79(a) is amended to strike the word “the” before the phrase “procedures and practices,” and amended to strike the phrase “the rule” and replace with the phrase “this Subpart” to comply with the federal regulation.

Regulation 61-62.68, Section 68.81, Incident investigation:  
Paragraph 68.81(a) is amended to strike the phrase “of a regulated substance” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:  
Paragraph 68.90(a) is amended to add the phrase “Responding stationary source,” and amended to add citations to read “Sections 68.93, 68.95, and 68.96” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:  
Paragraph 68.90(b) is amended to add the phrase “Non-responding stationary source”, to add the word “a”, and to strike the phrase “they meet the following” for compliance with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:  
Paragraph 68.90(b)(2) is amended to strike the word “and” after the semicolon for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:  
Paragraphs 68.90(b)(4) and 68.90(b)(5) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.91-94 [Reserved]:  
Section 68.91-94 is amended to strike “94” and replace with “92,” and to insert the new section title in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.93, Emergency response coordination activities:  
Section 68.93 is added in alpha-numeric order to adopt federal language on emergency response coordination activities for compliance with the federal regulation.

Regulation 61-62.68, Section 68.94 [Reserved]:  
Section 68.94 and the phrase “[Reserved]” are inserted in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.95, Emergency response program:

Paragraph 68.95(a)(1)(i) is amended to add “the appropriate federal, state, and” to comply with the federal regulation.

Regulation 61-62.68, Section 68.95, Emergency response program:  
Paragraph 68.95(a)(4) is amended to add a second sentence to comply with the federal regulation.

Regulation 61-62.68, Section 68.96 Emergency response exercises:  
Section 68.96 is added in alpha-numeric order to adopt federal language on emergency response exercises for compliance with the federal regulation.

Regulation 61-62.68, Section 68.96-99 [Reserved]:  
Section 68.96-99 is amended to strike “96” and replace with “97” for clarity.

Regulation 61-62.68, Section 68.115, Threshold determination:  
Paragraph 68.115(b)(2)(i) is amended to clarify an internal reference, and to add and update the contact information for the National Fire Protection Association to comply with the federal regulation.

Regulation 61-62.68, Section 68.125, Exemptions:  
Section 68.125, Exemptions, is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.126, Exclusions:  
Section 68.126 is amended to change the capitalization of the first sentence for consistency with federal regulations, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.150, Submission:  
Paragraph 68.150(a) is amended to strike the word “a” between “shall be submitted in” and “method and format” and replaced with the word “the”, and to strike the word “as” between “the central point” and “specified by” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:  
Paragraph 68.151(a) is amended to strike the abbreviation “CRF” and replace with “CFR” to correct a typographical error, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:  
Paragraph 68.151(b)(1) is amended to add “and (b)(21)” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:  
Paragraph 68.151(c)(2) is amended to strike the abbreviation “ACBI≅” and replace with “CBI” to correct a typographical error.

Regulation 61-62.68, Section 68.160, Registration:  
Paragraph 68.160(b)(13) is amended to remove capitalization for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:  
Paragraph 68.160(b)(19) is amended to strike the word “and” after the semicolon for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(20)(iv) is amended to strike the phrase “this part 68” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(21) is added in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.165, Offsite consequence analysis:

Paragraph 68.165(b)(5) is amended to strike the word “vaporization” and replace with the word “evaporation” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.168, Five-year accident history:

Section 68.168 is amended to strike the phrase “required by” and add the phrase “provided in” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.170, Prevention program/Program 2:

Paragraph 68.170(j) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(e) is amended to add a space between the word “Analysis” and the abbreviation “(PHA)” for clarity.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(l) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Section 68.180’s title is amended to add the phrase “and exercises” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a) is amended to strike the phrase “the following information” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(1) is amended to add contact information requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(2) is amended to add coordination date requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(3) is amended to add emergency plan requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraphs 68.180(a)(4) through 68.180(a)(6) are stricken for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b) is amended for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(1) and subparagraphs 68.180(b)(1)(i) through 68.180(b)(1)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(2) and subparagraphs 68.180(b)(2)(i) through 68.180(b)(2)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(c) is stricken in entirety for consistency with the federal regulation.

Regulation 61-62.68, Section 68.190, Updates:

Paragraph 68.190(a) is amended to strike the word “a” and replace with the word “the” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.195, Required corrections:

Paragraph 68.195(a) is amended to add the word “the” between “six months of” and “release or by” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.200, Recordkeeping:

Section 68.200 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68 at the stationary source”, and to add a comma after the word “years” for consistency with the federal regulation, and amended to strike the phrase “of this part” following the phrase “Subpart D” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(a) is amended to add the phrase “RMP availability”, and to add the citation “and 40 CFR Part 1400” for consistency with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is recodified 68.210(c) and amended to comply with the federal regulation.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is inserted in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a) is amended to add the word “Regulation” to the three citations for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(1) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(i) is amended to pluralize the word “Section” and add the citations “through (f) and 68.96(a) and (b)(2)(i),” after “Sections 68.10(a)” for consistency with the federal regulation, and amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(ii) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:  
Paragraph 68.215(c) is amended to add the word “Regulation” for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:  
Paragraph 68.215(d) is recodified 68.215(e) for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements.  
Paragraph 68.215(d) is added to denote delegation authority for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:  
Paragraphs 68.215(e)(1) and 68.215(e)(3) are amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:  
Paragraph 68.215(e)(4) is amended to recodify the internal reference for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220 Audits:  
Section 68.220 is amended throughout to strike the phrase “or the agency designated by delegation or agreement” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220 Audits:  
Section 68.220 is amended to strike paragraph 68.220(a) in entirety, and former paragraphs 68.220(b) through (k) are recodified 68.220(a) through (j) for consistency with the federal regulation. Internal citations throughout section are recodified for reorganization of regulatory text.

Regulation 61-62.68, Section 68.220 Audits:  
Paragraph 68.220(a) (former paragraph 68.220(b)) is amended to strike the phrase “or the agency designated by delegation or agreement under paragraph (a) of this section,” and amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:  
Paragraph 68.220(d) (former paragraph 68.220(e)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:  
Paragraph 68.220(e) (former paragraph 68.220(f)) is amended to remove a space between “AIChE/” and “CCPS” for consistency and clarity, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:  
Paragraph 68.220(f)(2) (former paragraph 68.220(g)(2)) is amended to add “to the Department the” before “written response”, and amended to strike the phrase “in accordance with” and replace with the word “under”, and amended to strike the word “issuance” and replace with the phrase “the issue”, and amended to strike the phrase “to the Department, or the agency designated by delegation or agreement” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220, Audits:  
Paragraph 68.220(h) (former paragraph 68.220(i)) is amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(j) (former paragraph 68.220(k)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency, and to remove capitalization for consistency.

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

Interested persons may submit comment(s) on the proposed amendments to R. Scott Bigleman of the Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [biglemrs@dhec.sc.gov](mailto:biglemrs@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 10, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at <http://www.scdhec.gov/Agenda>.

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

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

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

**DESCRIPTION OF REGULATION:** Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

**Purpose:** The EPA promulgated amendments to national air quality regulations in 2019. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2019, through December 31, 2019. Additionally, the Department proposes amending R.61-62.60 to add Subpart UUUUa, “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units,” to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The Department also proposes amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68 to ensure compliance with those regulations. The Department proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

**Legal Authority:** 1976 Code Sections 48-1-10 et seq.

**Plan for Implementation:** Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a



summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2019 included revised NSPS rules and NESHAPs for Source Categories. South Carolina is mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The proposed amendments also include amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The proposed revisions also include amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68, to ensure compliance with those regulations. The Department also proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

#### DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The NSPS, NESHAP, and Chemical Accident Prevention standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. The Department proposes the addition of Subpart UUUUa to R.61-62.60 to facilitate required implementation of the ACE rule. Costs to the regulated community resulting from this amendment attributable to and required by the federal ACE rule.

The proposed amendments incorporate revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

#### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

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

Adoption of the recent changes in federal regulations through the proposed amendments to R.61-62 will provide continued protection of the environment and public health.

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

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments are not adopted.

#### **Text:**

Indicates Matter Stricken

Indicates New Matter

## Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Regulation 61-62.60, Subpart B, shall be deleted in its entirety:

### ~~Subpart B – “Adoption and Submittal of State Plans for Designated Facilities”~~

~~The provisions of 40 CFR Part 60 Subpart B, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.~~

40 CFR Part 60 Subpart B			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 44	November 9, 1979	[44 FR 65071]
Revision	Vol. 54	December 20, 1989	[54 FR 52189]
Revision	Vol. 60	December 19, 1995	[60 FR 65387]
Revision	Vol. 65	December 6, 2000	[65 FR 76378]
Revision	Vol. 70	October 13, 2005	[70 FR 59848]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]

### Subpart Cf - “Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills”

(A) All designated facilities as defined at 40 CFR 60.31f must comply with the requirements of this subpart.

(B) The compliance times, emission guideline conditions and requirements, operational standards for collection and control systems, test methods and procedures, compliance provisions, monitoring requirements, reporting requirements, recordkeeping requirements, and specifications for active collection systems set forth in 40 CFR 60.32f through 60.40f, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein and applicable to each designated facility.

40 CFR Part 60 Subpart Cf			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 81	August 29, 2016	[81 FR 59276]
Revision	Vol. 84	August 26, 2019	[84 FR 44547]

(C) 40 CFR 60.41f, Definitions, is adopted and incorporated by reference as if fully repeated herein, except as follows: the word “Administrator” as used in this subpart shall mean the Department of Health and Environmental Control, with the exception of the sections within this subpart that may not be delegated by the EPA.

(D) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

**Regulation 61-62.60, Subpart CCCC, shall be revised as follows:**

**Subpart CCCC - “Standards of Performance for Commercial and Industrial Solid Waste Incineration Units”**

The provisions of 40 CFR Part 60 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart CCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
Revision	Vol. 66	March 27, 2001	[66 FR 16605]
Revision	Vol. 70	September 22, 2005	[70 FR 55568]
Revision	Vol. 76	May 18, 2011	[76 FR 28662]
Revision	Vol. 78	February 7, 2013	[78 FR 9112]
Revision	Vol. 81	June 23, 2016	[81 FR 40956]
<b>Revision</b>	<b>Vol. 84</b>	<b>April 16, 2019</b>	<b>[84 FR 15846]</b>

**Regulation 61-62.60, Subpart QQQQ title shall be revised as follows:**

**Subpart QQQQ - “Standards of Performance ~~For~~ New Residential Hydronic Heaters ~~And~~ Forced-Air Furnaces”**

**Regulation 61-62.60, Subpart TTTT title shall be revised as follows:**

**Subpart TTTT - “Standards of Performance ~~For~~ Greenhouse Gas Emissions ~~For~~ Electric Generating Units”**

**Regulation 61-62.60, Subpart UUUUa, shall be added in alpha-numeric order as follows:**

**Subpart UUUUa - “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units”**

(A) Applicability: Except as provided in (B) below, “designated facilities” that commenced construction on or before January 8, 2014, and meet the criteria set forth in 40 CFR 60.5775a(b) are subject to this subpart and must comply with all applicable requirements of this subpart, and must comply with the plan that the Department develops to implement the emission guidelines as required in 40 CFR 60.5770a(a), including permit conditions adopted pursuant to such plan and this subpart.

(B) The types of units described in 40 CFR 60.5780a are excluded from this subpart.

(C) For purposes of this subpart, “you” means the owner or operator of the designated facility, and “Department” means the South Carolina Department of Health and Environmental Control.

(D) The Department will set a standard of performance for each designated facility according to 40 CFR 60.5755a and compliance periods for each standard of performance according to 40 CFR 60.5750a through construction permits issued to each designated facility. Construction permits issued pursuant to this provision will be subject to the public participation procedures in Regulation 61-62.1, Section II.N. Each designated facility shall comply with the applicable standard of performance, compliance period, and associated requirements as set forth in the facility's construction permit, in addition to those requirements set forth in this subpart.

(E) For the Department to determine a standard of performance for each designated facility according to 40 CFR 60.5735a and 60.5755a, and issue a construction permit, each designated facility must submit to the Department upon request the information set forth in (E)(1) through (E)(5) below. Submission in full of the information in (E)(1) through (E)(5), in combination with any additional application information under Regulation 61-62.1, Section II.C.3 requested by the Department as relevant, will constitute a designated facility's permit application for purposes of construction permits issued to satisfy the requirements of this subpart.

(1) An evaluation of the applicability of each of the heat rate improvements specified in 40 CFR 60.5740a(a)(1) to the designated facility;

(2) An evaluation of the degree of emission limitation achievable ranges set forth in Table 1 to 40 CFR 60.5740a(a)(2)(i) through application of the heat rate improvements at the designated facility;

(3) If applicable, a summary of the application of remaining useful life or other relevant factors as provided in 40 CFR 60.24a(e) in the Department's derivation of the designated facility's standard of performance;

(4) The information listed in 40 CFR 60.5740a(a)(4)(i) through (iv) as applicable; and

(5) Supporting material, including any other materials requested by the Department or otherwise necessary to support the Department's review and determination of standards of performance.

(F) Monitoring, Recordkeeping, and Reporting Requirements. Each designated facility must comply with the following requirements in accordance with the compliance schedule set forth in the designated facility's construction permit referenced in paragraph (D) of this subpart:

(1) You must either:

(a) Monitor and report emission and electricity generation data according to 40 CFR Part 75; or

(b) Implement an alternative monitoring, recordkeeping, and reporting program that meets the requirements of 40 CFR 60.5785a(a)(2). A designated facility implementing such a program shall conduct all alternative monitoring, recordkeeping, and reporting in accordance with specific requirements set forth in the construction permit referenced in paragraph (D) of this subpart.

(2) You must keep records for a minimum of five (5) years from the date the record is used to determine compliance with a standard of performance requirement. Each record must be in a form suitable and readily available for expeditious review.

(G) For the Department to consider a revised standard of performance for a designated facility, such designated facility shall submit to the Department, either of its own accord or upon Department request, the information specified in paragraph (E) of this subpart.

(H) Definitions of terms used in this subpart are set forth in 40 CFR 60.5805a, except as otherwise provided in paragraph (C).

**Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories**

**Regulation 61-62.63, Subpart A, shall be revised as follows:**

**Subpart A - “General Provisions”**

The provisions of 40 Code of Federal Regulations (CFR) Part 63 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]
Revision	Vol. 69	January 2, 2004	[69 FR 130]
Revision	Vol. 69	February 3, 2004	[69 FR 5038]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 69	April 19, 2004	[69 FR 20968]
Revision	Vol. 69	April 22, 2004	[69 FR 21737]
Revision	Vol. 69	April 26, 2004	[69 FR 22602]
Revision	Vol. 69	June 15, 2004	[69 FR 33474]
Revision	Vol. 69	July 30, 2004	[69 FR 45944]
Revision	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	April 15, 2005	[70 FR 19992]
Revision	Vol. 70	May 20, 2005	[70 FR 29400]
Revision	Vol. 70	October 12, 2005	[70 FR 59402]
Revision	Vol. 71	February 16, 2006	[71 FR 8342]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	July 28, 2006	[71 FR 42898]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 72	January 3, 2007	[72 FR 26]
Revision	Vol. 72	January 23, 2007	[72 FR 2930]
Revision	Vol. 72	July 16, 2007	[72 FR 38864]
Revision	Vol. 72	October 29, 2007	[72 FR 61060]
Revision	Vol. 72	November 16, 2007	[72 FR 64860]
Revision	Vol. 72	December 26, 2007	[72 FR 73180]
Revision	Vol. 72	December 28, 2007	[72 FR 74088]
Revision	Vol. 73	January 2, 2008	[73 FR 226]
Revision	Vol. 73	January 9, 2008	[73 FR 1738]
Revision	Vol. 73	January 10, 2008	[73 FR 1916]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	February 7, 2008	[73 FR 7210]
Revision	Vol. 73	March 7, 2008	[73 FR 12275]
Revision	Vol. 73	July 23, 2008	[73 FR 42978]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	June 25, 2009	[74 FR 30366]
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	February 17, 2011	[76 FR 9450]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	April 17, 2012	[77 FR 22848]
Revision	Vol. 77	September 11, 2012	[77 FR 55698]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 78	February 1, 2013	[78 FR 7488]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	March 27, 2014	[79 FR 17340]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 80	September 18, 2015	[80 FR 56699]
Revision	Vol. 80	October 15, 2015	[80 FR 62389]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]
Revision	Vol. 83	October 15, 2018	[83 FR 51842]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]
<b>Revision</b>	<b>Vol. 84</b>	<b>February 28, 2019</b>	<b>[84 FR 6676]</b>
<b>Revision</b>	<b>Vol. 84</b>	<b>March 4, 2019</b>	<b>[84 FR 7682]</b>
<b>Revision</b>	<b>Vol. 84</b>	<b>March 15, 2019</b>	<b>[84 FR 9590]</b>

**Regulation 61-62.63, Subpart HHHH, shall be revised as follows:**

**Subpart HHHH - “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”**

The provisions of 40 CFR Part 63 Subpart HHHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart HHHH</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	April 11, 2002	[67 FR 17824]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<b>Revision</b>	<b>Vol. 84</b>	<b>February 28, 2019</b>	<b>[84 FR 6676]</b>

**Regulation 61-62.63, Subpart NNNN, shall be revised as follows:**

**Subpart NNNN - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”**

The provisions of 40 CFR Part 63 Subpart NNNN, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart NNNN</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<b>Revision</b>	<b>Vol. 84</b>	<b>March 15, 2019</b>	<b>[84 FR 9590]</b>

**Regulation 61-62.63, Subpart OOOO, shall be revised as follows:**

**Subpart OOOO - “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”**

The provisions of 40 CFR Part 63 Subpart OOOO, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart OOOO</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 69	August 4, 2004	[69 FR 47001]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	May 24, 2006	[71 FR 29792]
<b>Revision</b>	<b>Vol. 84</b>	<b>March 15, 2019</b>	<b>[84 FR 9590]</b>

**Regulation 61-62.63, Subpart QQQQ, shall be revised as follows:**

**Subpart QQQQ - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”**

The provisions of 40 CFR Part 63 Subpart QQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart QQQQ</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<b>Revision</b>	<b>Vol. 84</b>	<b>March 4, 2019</b>	<b>[84 FR 7682]</b>

**Regulation 61-62.63, Subpart RRRR, shall be revised as follows:**



**Subpart RRRR - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”**

The provisions of 40 CFR Part 63 Subpart RRRR, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart RRRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<b>Revision</b>	<b>Vol. 84</b>	<b>March 15, 2019</b>	<b>[84 FR 9590]</b>

**Regulation 61-62.63, Subpart TTTT, shall be revised as follows:**

**Subpart TTTT - “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”**

The provisions of 40 CFR Part 63 Subpart TTTT, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart TTTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 70	February 7, 2005	[70 FR 6355]
<b>Revision</b>	<b>Vol. 84</b>	<b>February 12, 2019</b>	<b>[84 FR 3308]</b>

**Regulation 61-62.63, Subpart JJJJJ title shall be revised as follows:**

**Subpart JJJJJ - “National Emission Standards **Forfor** Hazardous Air Pollutants **Forfor** Brick **Andand** Structural Clay Products Manufacturing”**

**Regulation 61-62.63, Subpart KKKKK, shall be revised as follows:**

**Subpart KKKKK - “National Emission Standards **Forfor** Hazardous Air Pollutants **Forfor** Clay Ceramics Manufacturing”**

The provisions of 40 CFR Part 63, Subpart KKKKK, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 16, 2003	[67 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]
Revision	Vol. 71	April 20, 2006	[71 FR 20445]

40 CFR Part 63 Subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 71	June 23, 2006	[71 FR 36014]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
<b>Revision</b>	<b>Vol. 84</b>	<b>November 1, 2019</b>	<b>[84 FR 58601]</b>

Regulation 61-62.63, Subpart QQQQQ, shall be revised as follows:

**Subpart QQQQQ - “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”**

The provisions of 40 CFR Part 63 Subpart QQQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart QQQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	October 18, 2002	[67 FR 64498]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<b>Revision</b>	<b>Vol. 84</b>	<b>February 8, 2019</b>	<b>[84 FR 2742]</b>

Regulation 61-62.63, Subpart CCCCC title shall be revised as follows:

**Subpart CCCCC - “National Emission Standards ~~For~~ Hazardous Air Pollutants ~~For~~ Source Category: Gasoline Dispensing Facilities”**

**Regulation 61-62.68, Chemical Accident Prevention Provisions**

Regulation 61-62.68.1 shall be revised as follows:

~~This part~~ Regulation 61-62.68 sets forth the list of regulated substances and thresholds, the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, and the ~~S~~state accidental release prevention programs approved under ~~s~~Section 112(r) of the Clean Air Act. The list of substances, threshold quantities, and accident prevention regulations promulgated under ~~this part~~ Regulation 61-62.68 do not limit in any way the general duty provisions under ~~s~~Section 112(r)(1) of the ~~Clean Air~~ Act.

Regulation 61-62.68.3 shall be revised as follows:

Terms used in ~~this part~~ Regulation 61-62.68 that are not defined below or in Regulation 61-62.1, Section I, have the meaning given to them in the Clean Air Act and in 40 CFR Part 68, ~~s~~Subpart A.

- (a) ~~“Accidental Release”~~ means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- (b) ~~“Administrative controls”~~ mean written procedural mechanisms used for hazard control.
- (c) ~~Administrator~~ means the administrator of the U.S. Environmental Protection Agency.

(ed) “AICHE/CCPS” means the American Institute of Chemical Engineers/-Center for Chemical Process Safety.

(ee) “API” means the American Petroleum Institute.

(ef) “Article” means a manufactured item, as defined under 29 CFR 1910.1200(b), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

(fg) “ASME” means the American Society of Mechanical Engineers.

(gh) “CAS” means the Chemical Abstracts Service.

(hi) “Catastrophic release” means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

**(j) CBI means confidential business information.**

(ik) “Classified information” means “classified information” as defined in the Classified Information Procedures Act, 18 U.S.C. App. 3, sSection 1(a) as “any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.”

(jl) “Condensate” means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

(km) “Covered process” means a process that has a regulated substance present in more than a threshold quantity as determined under Section 68.115.

(ln) “Crude oil” means any naturally occurring, unrefined petroleum liquid.

**(o) DOT means the United States Department of Transportation.**

(mp) “Environmental receptor” means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in Section 68.22(a)-, as a result of an accidental release and that can be identified on local U.-S. Geological Survey maps.

**(q) Field gas means gas extracted from a production well before the gas enters a natural gas processing plant.**

(nr) “Hot work” means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

~~(o) “Field gas” means gas extracted from a production well before the gas enters a natural gas processing plant.~~

(ps) “Injury” means any effect on a human that results either from direct exposure to toxic concentrations;

radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

**(t) LEPC** means local emergency planning committee as established under 42 U.S.C. 11001(c).

**(qu)** “**Major change**” means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

**(rv)** “**Mechanical integrity**” means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

**(sw)** “**Medical treatment**” means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.

**(tx)** “**Mitigation or mitigation system**” means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.

**(u)** “**Natural gas processing plant (gas plant)**” means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

**(vy)** “**NAICS**” means North American Industry Classification System.

**(z)** **Natural gas processing plant (gas plant)** means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

**(waa)** “**NFPA**” means the National Fire Protection Association.

**(xbb)** “**Offsite**” means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

**(ycc)** “**OSHA**” means the U.S. Occupational Safety and Health Administration.

**(zdd)** “**Owner or operator**” means any person who owns, leases, operates, controls, or supervises a stationary source.

**(aaec)** “**Petroleum refining process unit**” means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; separating petroleum; or separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating,

catalytic hydrotreating, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

(b)(1) **Population** means the public.

(e)(1) **Process** means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

(d)(1) **Produced water** means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

(e)(2) **Public** means any person except employees or contractors at the stationary source.

(f)(1) **Public receptor** means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

(g)(1) **Regulated substance** means any substance listed pursuant to Section 112(r)(3) of the Clean Air Act as amended, in Section 68.130.

(h)(1) **Replacement in kind** means a replacement that satisfies the design specifications.

(m) **Retail facility** means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(n) **RMP** means the risk management plan required under Subpart G of this part.

(j)(1) **Stationary source** means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of Regulation 61-62.68. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 CFR Parts 192, 193, or 195, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. Section 60105. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

(k)(1) **Threshold quantity** means the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Clean Air Act as amended, listed in Section 68.130 and determined to be present at a stationary source as specified in Section 68.115 of this part.

~~(hqq)~~ **“Typical meteorological conditions”** means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

~~(mm)~~ **“USDOT”** means the United States Department of Transportation.

~~(nrr)~~ **“Vessel”** means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

~~(oss)~~ **“Worst-case release”** means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 68.22(a).

~~“Retail facility”~~ means a stationary source at which more than one half of the income is obtained from direct sales to end users or at which more than one half of the fuel sold, by volume, is sold through a cylinder exchange program.

**Regulation 61-62.68.10 shall be revised as follows:**

(a) ~~An Except as provided in paragraphs (b) through (f) of this section, an~~ owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under Section 68.115, shall comply with the requirements of ~~this part~~ Regulation 61-62.68 no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under Section 68.130; ~~or~~

(3) The date on which a regulated substance is first present above a threshold quantity in a process; ~~or~~

~~(4) For any revisions to Regulation 61-62.68 that incorporate revisions to 40 CFR Part 68, the effective date of the final rule that revises 40 CFR Part 68.~~

~~(b) By March 14, 2018, the owner or operator of a stationary source shall comply with the emergency response coordination activities in Section 68.93, as applicable.~~

~~(c) Within three (3) years of when the owner or operator determines that the stationary source is subject to the emergency response program requirements of Section 68.95, pursuant to Section 68.90(a), the owner or operator must develop and implement an emergency response program in accordance with Section 68.95.~~

~~(d) By December 19, 2023, the owner or operator shall have developed plans for conducting emergency response exercises in accordance with provisions of Section 68.96, as applicable.~~

~~(e) The owner or operator of a stationary source shall comply with the public meeting requirement in Section 68.210(b) within ninety (90) days of any RMP reportable accident at the stationary source with known offsite impacts specified in Section 68.42(a), that occurs after March 15, 2021.~~

~~(f) After December 19, 2024, for any RMP initially submitted as required by Section 68.150(b)(2) or (3) or submitted as an update required by Section 68.190, the owner or operator shall comply with the following risk management plan provisions of Subpart G:~~

(1) Reporting a public meeting after an RMP reportable accident under Section 68.160(b)(21);

(2) Reporting emergency response program information under Section 68.180(a)(1);

(3) Reporting emergency response program information under Section 68.180(a)(2) and (3), as applicable; and,

(4) Reporting emergency response program and exercises information under Section 68.180(b), as applicable. The owner or operator shall submit dates of the most recent notification, field, and tabletop exercises in the RMP, for exercises completed as required under Section 68.96 at the time the RMP is either submitted under Section 68.150(b)(2) or (3), or is updated under Section 68.190.

**(bg)** Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 68.12(b) if it meets all of the following requirements:

(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following offsite:

(i) Death;

(ii) Injury; or

(iii) Response or restoration activities for an exposure of an environmental receptor;

(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and Section 68.25 is less than the distance to any public receptor, as defined in Section 68.30; and

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

**(eh)** Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of either paragraph **(bg)** or paragraph **(di)** of this section.

**(di)** Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of paragraph **(bg)** of this section, and if either of the following conditions is met:

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or

(2) The process is subject to the OSHA process safety management standard, 29 CFR 1910.119.

**(ej)** If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 68.190.

**(fk)** The provisions of ~~this part~~ Regulation 61-62.68 shall not apply to an Outer Continental Shelf (OCS) source, as defined in 40 CFR 55.2.

**Regulation 61-62.68.12 shall be revised as follows:**

(a) General requirements. The owner or operator of a stationary source subject to ~~this part~~ **Regulation 61-62.68** shall submit a single RMP, as provided in ~~Sees. Sections~~ **68.150 to 68.185**. The RMP shall include a registration that reflects all covered processes.

(b) Program 1 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 68.10(~~bg~~), shall:

(1) Analyze the worst-case release scenario for the process(es), as provided in Section 68.25; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 68.22(a); and submit in the RMP the worst-case release scenario as provided in Section 68.165;

(2) Complete the five-year accident history for the process as provided in Section 68.42 ~~of this part~~ and submit it in the RMP as provided in Section 68.168;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and

(4) Certify in the RMP the following: “Based on the criteria in ~~Section 40 CFR~~ **68.10**, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program rule (~~Sec. 40 CFR~~ **68.10(~~bg~~)**(1)). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. [Signature, title, date signed].”

(c) Program 2 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 2, as provided in Section 68.10(~~eh~~), shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in ~~Sees. Sections~~ **68.20 through 68.42**;

(3) Implement the Program 2 prevention steps provided in ~~Sees. Sections~~ **68.48 through 68.60** or implement the Program 3 prevention steps provided in ~~Sees. Sections~~ **68.65 through 68.87**;

~~(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;~~

~~(45) Develop and implement an emergency response program, and conduct exercises,~~ as provided in ~~Sees. Sections~~ **68.90 to 68.9596**; and

~~(56) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 68.170.~~



(d) Program 3 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 68.10(d) shall:

- (1) Develop and implement a management system as provided in Section 68.15;
- (2) Conduct a hazard assessment as provided in ~~Sees. Sections~~ 68.20 through 68.42;
- (3) Implement the prevention requirements of ~~Sees. Sections~~ 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93:

(45) Develop and implement an emergency response program, and conduct exercises, as provided in ~~Sees. Sections~~ 68.90 to 68.95 of this part~~96~~; and

(56) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.

**Regulation 61-62.68.28(e)(2) shall be revised as follows:**

- (2) Failure scenarios identified under ~~Sees. Sections~~ 68.50 or 68.67.

**Regulation 61-62.68.42(b)(11) shall be revised as follows:**

(11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with ~~See. Section~~ 68.168.

**Regulation 61-62.68.48(a)(1) shall be revised as follows:**

- (1) ~~Material~~ Safety Data Sheets (SDS) that meet the requirements of 29 CFR 1910.1200(g);

**Regulation 61-62.68.48(b) shall be revised as follows:**

(b) The owner or operator shall ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Compliance with ~~F~~ederal or ~~S~~tate regulations that address industry-specific safe design or with industry-specific design codes and standards may be used to demonstrate compliance with this paragraph.

**Regulation 61-62.68.56(d) shall be revised as follows:**

(d) The owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

**Regulation 61-62.68.58(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this

subpart at least every three years to verify that the procedures and practices developed under ~~the rule~~this Subpart are adequate and are being followed.

**Regulation 61-62.68.60 shall be revised as follows:**

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release ~~of a regulated substance~~.

(b) The owner or operator shall initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.

(c) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

~~(ed)~~ The owner or operator shall prepare a summary report at the conclusion of the investigation which includes at a minimum:

- (1) Date of incident;
- (2) Date investigation began;
- (3) A description of the incident;
- (4) The factors that contributed to the incident; and,
- (5) Any recommendations resulting from the investigation.

~~(de)~~ The owner or operator shall promptly address and resolve the investigation findings and recommendations. Resolutions and corrective actions shall be documented.

~~(ef)~~ The owner or operator shall ensure that the findings are reviewed with all affected personnel whose job tasks are affected by the findings.

~~(fg)~~ The owner or operator shall retain the incident investigation summaries reports for five years.

**Regulation 61-62.68.65(a) shall be revised as follows:**

(a) ~~In accordance with the schedule set forth in Section 68.67, the~~ The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

**Regulation 61-62.68.65(b) shall be revised as follows:**

(b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:

- (1) Toxicity information;
- (2) Permissible exposure limits;
- (3) Physical data;
- (4) Reactivity data;
- (5) Corrosivity data;
- (6) Thermal and chemical stability data; and
- (7) Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.

~~Material~~ Safety Data Sheets (SDS) meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

**Regulation 61-62.68.67(c)(2) shall be revised as follows:**

(2) The identification of any previous incident which had a likely potential for catastrophic consequences;

**Regulation 61-62.68.67(d) shall be revised as follows:**

(d) ~~A. The process hazard analysis shall be performed by a team with expertise in engineering and process operations shall perform, and the process hazard analysis. The~~ team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

**Regulation 61-62.68.67(f) shall be revised as follows:**

(f) ~~A team meeting the requirements in paragraph (d) of this section shall, at least every five (5) years after the completion of the initial process hazard analysis, updated and revalidate the process hazard analysis~~ shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph.

**Regulation 61-62.68.73(d)(3) shall be revised as follows:**

(3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

**Regulation 61-62.68.79(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this subpart at least every three years to verify that the procedures and practices developed under ~~the rule this~~ Subpart are adequate and are being followed.

**Regulation 61-62.68.81(a) shall be revised as follows:**

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance.

**Regulation 61-62.68.90(a) shall be revised as follows:**

(a) **Responding stationary source.** Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Sections **68.93, 68.95, and 68.96.**

**Regulation 61-62.68.90(b) shall be revised as follows:**

(b) **Non-responding stationary source.** The owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with Section 68.95 of this part provided that **they meet the following:**

(1) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003;

(2) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the owner or operator has coordinated response actions with the local fire department; **and**

(3) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

**(4) The owner or operator performs the annual emergency response coordination activities required under Section 68.93; and**

**(5) The owner or operator performs the annual notification exercises required under Section 68.96(a).**

**Regulation 61-62.68.91-94 shall be revised as follows:**

**Section 68.91-9492 [Reserved]**

**Regulation 61-62.68.93 shall be added in alpha-numeric order as follows:**

**Section 68.93 Emergency response coordination activities.**

**The owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.**

**(a) Coordination shall occur at least annually, and more frequently if necessary, to address changes: At the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.**

**(b) Coordination shall include providing to the local emergency planning and response organizations: The**

stationary source's emergency response plan if one exists; emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan. For responding stationary sources, coordination shall also include consulting with local emergency response officials to establish appropriate schedules and plans for field and tabletop exercises required under Section 68.96(b). The owner or operator shall request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss those materials.

(c) The owner or operator shall document coordination with local authorities, including: The names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

(d) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

**Regulation 61-62.68.94 shall be added in alpha-numeric order as follows:**

**Section 68.94 [Reserved]**

**Regulation 61-62.68.95(a)(1)(i) shall be revised as follows:**

(i) Procedures for informing the public and the appropriate federal, state, and local emergency response agencies about accidental releases;

**Regulation 61-62.68.95(a)(4) shall be revised as follows:**

(4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes. The owner or operator shall review and update the plan as appropriate based on changes at the stationary source or new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information, and ensure that employees are informed of the changes.

**Regulation 61-62.68.96 shall be added in alpha-numeric order as follows:**

**Section 68.96 Emergency response exercises.**

(a) Notification exercises. At least once each calendar year, the owner or operator of a stationary source with any Program 2 or Program 3 process shall conduct an exercise of the stationary source's emergency response notification mechanisms required under Section 68.90(b)(3) or Section 68.95(a)(1)(i), as appropriate, before December 19, 2024, and annually thereafter. Owners or operators of responding stationary sources may perform the notification exercise as part of the tabletop and field exercises required in paragraph (b) of this section. The owner/operator shall maintain a written record of each notification exercise conducted over the last five (5) years.

(b) Emergency response exercise program. The owner or operator of a stationary source subject to the requirements of Section 68.95 shall develop and implement an exercise program for its emergency response program, including the plan required under Section 68.95(a)(1). Exercises shall involve facility emergency response personnel and, as appropriate, emergency response contractors. When planning emergency response field and tabletop exercises, the owner or operator shall coordinate with local public emergency

response officials and invite them to participate in the exercise. The emergency response exercise program shall include:

(1) Emergency response field exercises. The owner or operator shall conduct field exercises involving the simulated accidental release of a regulated substance (i.e., toxic substance release or release of a regulated flammable substance involving a fire and/or explosion).

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for field exercises.

(ii) Scope. Field exercises shall involve tests of the source's emergency response plan, including deployment of emergency response personnel and equipment. Field exercises should include: Tests of procedures to notify the public and the appropriate federal, state, and local emergency response agencies about an accidental release; tests of procedures and measures for emergency response actions including evacuations and medical treatment; tests of communications systems; mobilization of facility emergency response personnel, including contractors, as appropriate; coordination with local emergency responders; emergency response equipment deployment; and any other action identified in the emergency response program, as appropriate.

(2) Tabletop exercises. The owner or operator shall conduct a tabletop exercise involving the simulated accidental release of a regulated substance.

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for tabletop exercises, and shall conduct a tabletop exercise before December 21, 2026, and at a minimum of at least once every three (3) years thereafter.

(ii) Scope. Tabletop exercises shall involve discussions of the source's emergency response plan. The exercise should include discussions of: Procedures to notify the public and the appropriate federal, state, and local emergency response agencies; procedures and measures for emergency response including evacuations and medical treatment; identification of facility emergency response personnel and/or contractors and their responsibilities; coordination with local emergency responders; procedures for emergency response equipment deployment; and any other action identified in the emergency response plan, as appropriate.

(3) Documentation. The owner or operator shall prepare an evaluation report within ninety (90) days of each field and tabletop exercise. The report should include: A description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.

(c) Alternative means of meeting exercise requirements. The owner or operator may satisfy the requirement to conduct notification, field and/or tabletop exercises through:

(1) Exercises conducted to meet other federal, state, or local exercise requirements, provided the exercises meet the requirements of paragraphs (a) and/or (b) of this section, as appropriate.

(2) Response to an accidental release, provided the response includes the actions indicated in paragraphs (a) and/or (b) of this section, as appropriate. When used to meet field and/or tabletop exercise requirements, the owner or operator shall prepare an after-action report comparable to the exercise evaluation report

required in paragraph (b)(3) of this section, within ninety (90) days of the incident.

**Regulation 61-62.68.96-99 shall be revised as follows:**

**Section 68.9697-99 [Reserved]**

**Regulation 61-62.68.115(b)(2)(i) shall be revised as follows:**

(i) General provision. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether more than a threshold quantity of the regulated substance is present at the stationary source. Except as provided in paragraph (b)(2)-(ii) and (b)(2)(iii) of this section, if the concentration of the substance is one percent or greater by weight of the mixture, then, for purposes of determining whether a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Quincy, MA, 1996 ~~(available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101).~~ Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, National Fire Protection Association, Quincy, MA, 1996 ~~(available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101).~~ Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). The owner or operator shall document the National Fire Protection Association flammability hazard rating.

**Regulation 61-62.68.125 shall be revised as follows:**

Agricultural nutrients. Ammonia used as an agricultural nutrient, when held by farmers, is exempt from all provisions of ~~this part~~ Regulation 61-62.68.

**Regulation 61-62.68.126 shall be revised as follows:**

~~Flammable substances used as fuel or held for sale as fuel at retail facilities.~~ Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities. A flammable substance listed in Tables 3 and 4 of Section 68.130 is nevertheless excluded from all provisions of ~~this part~~ Regulation 61-62.68 when the substance is used as a fuel or held for sale as a fuel at a retail facility.

**Regulation 61-62.68.130(a) shall be revised as follows:**

(a) Regulated toxic and flammable substances under ~~s~~Section 112(r) of the Clean Air Act are the substances listed in Tables 1, 2, 3, and 4. Threshold quantities for listed toxic and flammable substances are specified in the tables.

**Regulation 61-62.68.150(a) shall be revised as follows:**

(a) The owner or operator shall submit a single RMP that includes the information required by ~~Sees. Sections~~ 68.155 through 68.185 for all covered processes. The RMP shall be submitted in ~~a the~~ method and format to the central point ~~as~~ specified by EPA as of the date of submission.

**Regulation 61-62.68.150(c) shall be revised as follows:**

(c) ~~The~~ owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall ~~revise~~ the RMP to include the information required by ~~See. Sections~~ 68.160(b)(6) and (14) by June 21, 2004, in the manner specified by EPA prior to that date. Any such submission shall also include the information required by ~~See. Sections~~ 68.160(b)(20) (indicating that the submission is a correction to include the information required by ~~See. Sections~~ 68.160(b)(6) and (14) or an update under ~~See. Sections~~ 68.190).

**Regulation 61-62.68.150(d) shall be revised as follows:**

(d) ~~RMPs~~ submitted under this section shall be updated and corrected in accordance with ~~Sees. Sections~~ 68.190 and 68.195.

**Regulation 61-62.68.151(a) shall be revised as follows:**

(a) Except as provided in paragraph (b) of this section, an owner or operator of a stationary source required to report or otherwise provide information under ~~this part~~ Regulation 61-62.68 may make a claim of confidential business information for any such information that meets the criteria set forth in 40 ~~CFR~~ CFR 2.301.

**Regulation 61-62.68.151(b)(1) shall be revised as follows:**

(1) Registration data required by Section 68.160(b)(1) through (b)(6) and (b)(8), (b)(10) through (b)(13), ~~and (b)(21)~~, and NAICS code and Program level of the process set forth in Section 68.160(b)(7);

**Regulation 61-62.68.151(c)(2) shall be revised as follows:**

(2) A sanitized (redacted) copy of the RMP, with the notation ~~ACBI~~ “CBI” substituted for the information claimed confidential, except that a generic category or class name shall be substituted for any chemical name or identity claimed confidential; and

**Regulation 61-62.68.160(b) shall be revised as follows:**

(b) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

(2) The stationary source Dun and Bradstreet number;



- (3) Name and Dun and Bradstreet number of the corporate parent company;
- (4) The name, telephone number, and mailing address of the owner or operator;
- (5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;
- (6) The name, title, telephone number, 24 - hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;
- (7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;
- (8) The stationary source EPA identifier;
- (9) The number of full-time employees at the stationary source;
- (10) Whether the stationary source is subject to 29 CFR 1910.119;
- (11) Whether the stationary source is subject to 40 CFR Part 355;
- (12) If the stationary source has a CAA Title V operating permit, the permit number;
- (13) The date of the last safety inspection of the stationary source by a ~~F~~federal, ~~S~~state, or local government agency and the identity of the inspecting entity;
- (14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);
- (15) Source or Parent Company E-mail Address (Optional);
- (16) Source Homepage address (Optional);
- (17) Phone number at the source for public inquiries (Optional);
- (18) Local Emergency Planning Committee (Optional);
- (19) OSHA Voluntary Protection Program status (Optional); ~~and~~
- (20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:
  - (i) Updates and re-submissions required under ~~See-Section~~ 68.190(b);
  - (ii) Corrections under ~~See-Section~~ 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in ~~See-Section~~ 68.190(b);

(iii) De-registrations required under ~~Sec.~~ Section 68.190(c); and

(iv) Withdrawals of an RMP for any facility that was erroneously considered subject to ~~this part~~ 68Regulation 61-62.68.

(21) Whether a public meeting has been held following an RMP reportable accident, pursuant to Section 68.210(b).

**Regulation 61-62.68.165(b)(5) shall be revised as follows:**

(5) Scenario (explosion, fire, toxic gas release, or liquid spill and ~~vaporization~~ evaporation);

**Regulation 61-62.68.168 shall be revised as follows:**

The owner or operator shall submit in the RMP the information ~~required by~~ provided in Section 68.42(b) on each accident covered by Section 68.42(a).

**Regulation 61-62.68.170(j) shall be revised as follows:**

(j) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.

**Regulation 61-62.68.175(e) shall be revised as follows:**

(e) The date of completion of the most recent Process Hazard Analysis (PHA) or update and the technique used.

**Regulation 61-62.68.175(l) shall be revised as follows:**

(l) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation;

**Regulation 61-62.68.180 shall be revised as follows:**

**Section 68.180 Emergency response program and exercises.**

(a) The owner or operator shall provide in the RMP ~~the following information:~~

~~(1) Whether he or she has a written emergency response plan; Name, phone number, and email address of local emergency planning and response organizations with which the stationary source last coordinated emergency response efforts, pursuant to Section 68.10(g)(3) or Section 68.93;~~

~~(2) Whether the plan includes specific actions to be taken in response to an accidental release of a regulated substance; The date of the most recent coordination with the local emergency response organizations, pursuant to Section 68.93; and~~

~~(3) Whether the plan includes procedures for informing the public and local agencies responsible for responding to accidental releases; A list of federal or state emergency plan requirements to which the stationary source is subject.~~

~~(4) Whether the plan includes information on emergency health care;~~

~~—(5) The date of the most recent review or update of the emergency response plan; and~~

~~—(6) The date of the most recent emergency response training for employees.~~

(b) The owner or operator shall ~~provide the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.~~ identify in the RMP whether the facility is a responding stationary source or a non-responding stationary source, pursuant to Section 68.90.

(1) For non-responding stationary sources, the owner or operator shall identify:

(i) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, whether the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003, pursuant to Section 68.90(b)(1):

(ii) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the date of the most recent coordination with the local fire department, pursuant to Section 68.90(b)(2):

(iii) What mechanisms are in place to notify the public and emergency responders when there is a need for emergency response; and

(iv) The date of the most recent notification exercise, as required in Section 68.96(a).

(2) For responding stationary sources, the owner or operator shall identify:

(i) The date of the most recent review and update of the emergency response plan, pursuant to Section 68.95(a)(4):

(ii) The date of the most recent notification exercise, as required in Section 68.96(a):

(iii) The date of the most recent field exercise, as required in Section 68.96(b)(1); and

(iv) The date of the most recent tabletop exercise, as required in Section 68.96(b)(2).

~~(c) The owner or operator shall list other Federal or State emergency plan requirements to which the stationary source is subject.~~

**Regulation 61-62.68.190(a) shall be revised as follows:**

(a) The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in a-the method and format to a-the central point specified by EPA as of the date of submission.

**Regulation 61-62.68.195(a) shall be revised as follows:**

(a) New accident history information—For any accidental release meeting the five-year accident history reporting criteria of See-Section 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under Sees-Sections 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under See-Section 68.190, whichever is earlier.

**Regulation 61-62.68.195(b) shall be revised as follows:**

(b) Emergency contact information—Beginning June 21, 2004, within one month of any change in the emergency contact information required under ~~See—Section~~ 68.160(b)(6), the owner or operator shall submit a correction of that information.

**Regulation 61-62.68.200 shall be revised as follows:**

The owner or operator shall maintain records supporting the implementation of ~~this part~~ Regulation 61-62.68 at the stationary source for five years, unless otherwise provided in ~~s~~Subpart D of this part.

**Regulation 61-62.68.210(a) shall be revised as follows:**

(a) ~~RMP availability.~~ The RMP required under ~~s~~Subpart G of this part shall be available to the public under 42 U.S.C. 7414(c) and 40 CFR Part 1400.

**Regulation 61-62.68.210(b) shall be revised as follows:**

~~(b) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under Section 68.42(b), no later than ninety (90) days after any RMP reportable accident at the stationary source with any known offsite impact specified in Section 68.42(a).~~

~~(bc) Classified and restricted information. The disclosure of ~~classified~~ information ~~classified or restricted~~ by the Department of Defense or other ~~F~~federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of ~~that~~ ~~classified~~ ~~or restricted~~ information.~~

**Regulation 61-62.68.215(a) shall be revised as follows:**

(a) These requirements apply to any stationary source subject to Regulation 61-62.68 and Regulation 61-62.70. The Regulation 61-62.70 permit for the stationary source shall contain:

(1) A statement listing ~~this part~~ Regulation 61-62.68 as an applicable requirement;

(2) Conditions that require the source owner or operator to submit:

(i) A compliance schedule for meeting the requirements of ~~this part~~ Regulation 61-62.68 by the date provided in Sections 68.10(a) through (f) and 68.96(a) and (b)(2)(i), or;

(ii) As part of the compliance certification submitted under ~~s~~Section 61-62.70.6(c)(5), a certification statement that the source is in compliance with all requirements of ~~this part~~ Regulation 61-62.68, including the registration and submission of the RMP.

**Regulation 61-62.68.215(c) shall be revised as follows:**

(c) For Regulation 61-62.70 permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in paragraph (a) of this section, the owner or operator or the Department shall initiate permit revision or reopening according to the procedures of ~~s~~Section 61-62.70.7 to incorporate the terms and conditions consistent with paragraph (a) of this section.

**Regulation 61-62.68.215(d) and (e) shall be revised as follows:**

~~(d) The Department may delegate the authority to implement and enforce the requirements of paragraph (e) of this section to a state or local agency or agencies other than the Department. An up-to-date copy of any delegation instrument shall be maintained by the Department. The state may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of paragraph (e) of this section.~~

~~(de)~~ The Department will, at a minimum:

(1) Verify that the source owner or operator has registered and submitted an RMP or a revised plan when required by ~~this part~~ Regulation 61-62.68;

(2) Verify that the source owner or operator has submitted a source certification or in its absence has submitted a compliance schedule consistent with paragraph (a)(2) of this section;

(3) For some or all of the sources subject to this section, use one or more mechanisms such as, but not limited to, a completeness check, source audits, record reviews, or facility inspections to ensure that permitted sources are in compliance with the requirements of ~~this part~~ Regulation 61-62.68; and

(4) Initiate enforcement action based on paragraphs ~~(de)~~(1) and ~~(de)~~(2) of this section as appropriate.

**Regulation 61-62.68.220 shall be revised as follows:**

~~(a) The State may partially delegate the authority to implement and enforce the requirements of this section to a State agency or agencies other than the Department. An up-to-date copy of any delegation instrument will be maintained by the Department. The Department may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of this section.~~

~~(ba)~~ In addition to inspections for the purpose of regulatory development and enforcement of the Act, the Department, ~~or the agency designated by delegation or agreement under paragraph (a) of this section,~~ will periodically audit RMPs submitted under ~~s~~Subpart G ~~of this part~~ to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with ~~s~~Subpart G ~~of this part~~.

~~(eb)~~ The Department, ~~or the agency designated by delegation or agreement,~~ will select stationary sources for audits based on any of the following criteria:

- (1) Accident history of the stationary source;
- (2) Accident history of other stationary sources in the same industry;
- (3) Quantity of regulated substances present at the stationary source;
- (4) Location of the stationary source and its proximity to the public and environmental receptors;
- (5) The presence of specific regulated substances;
- (6) The hazards identified in the RMP; and
- (7) A plan providing for neutral, random oversight.

~~(dc)~~ Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary

protection program shall be exempt from audits under paragraphs (eb)(2) and (eb)(7) of this section.

(ed) The owner or operator of a stationary source subject to this part Regulation 61-62.68 shall provide the Department, ~~or the agency designated by delegation or agreement,~~ access to the stationary source, supporting documentation, and any area where an accidental release could occur.

(fe) Based on the audit, the Department, ~~or the agency designated by delegation or agreement,~~ may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP meets the criteria of sSubpart G ~~of this part~~. The preliminary determination ~~will shall~~ include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and ~~will shall~~ include a timetable for their implementation.

(gf) Written response to a preliminary determination.

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph (fe) of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) The owner or operator shall provide ~~to the Department the~~ written response ~~in accordance with under~~ paragraph (gf)(1) ~~to the Department, or the agency designated by delegation or agreement,~~ within ninety (90) days of ~~issuance the issue~~ of the preliminary determination or a shorter period of time as the Department, ~~or the agency designated by delegation or agreement,~~ specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department, ~~or the agency designated by delegation or agreement,~~ may provide in writing additional time for the response to be received.

(hg) After providing the owner or operator an opportunity to respond under paragraph (gf) of this section, the Department, ~~or the agency designated by delegation or agreement,~~ may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph (fe) of this section or may adopt or modify the substitute revisions provided in the response under paragraph (gf) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph (gf) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.

(ih) Thirty (30) days after completion of the actions detailed in the implementation schedule set in the final determination under paragraph (hg) of this section, the owner or operator shall be in violation of sSubpart G ~~of this part~~ and this section unless the owner or operator revises the RMP prepared under sSubpart G ~~of this part~~ as required by the final determination, and submits the revised RMP as required under Section 68.150.

(ji) The public shall have access to the preliminary determinations, responses, and final determinations under this section in a manner consistent with Section 68.210.

(kj) Nothing in this section shall preclude, limit, or interfere in any way with the authority of EPA, the

Department, ~~or the agency designated by delegation or agreement,~~ to exercise its enforcement, investigatory, and information gathering authorities concerning ~~this part~~ Regulation 61-62.68 under other State or Federal Statutes.

## ATTACHMENT B

### 12 DRAFTING NOTICES

#### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

##### CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

#### Notice of Drafting:

The Department of Health and Environmental Control ("Department") proposes amending R.61-62, Air Pollution Control Regulations and Standards. Interested persons may submit comments on the proposed amendments to R. Scott Bigleman of the Air Regulation and SIP Management Section, Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; or via email at [biglemrs@dhec.sc.gov](mailto:biglemrs@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on March 30, 2020, the close of the drafting comment period.

#### Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61-62.68, Chemical Accident Prevention Provisions, to incorporate by reference federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units," also known as the Affordable Clean Energy rule (ACE), as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 C.F.R. Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 C.F.R. Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department may also propose other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes may include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement of the text of R.61-62 as necessary.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments to maintain compliance with federal law.



(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Environmental Health Services

**Re: Notice of Proposed Regulation amending R.61-56, *Onsite Wastewater Systems*; and repealing R.61-55, *Septic Tank Site Evaluation Fees*, R.61-56.1, *License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets*, and R.61-56.2, *Licensing of Onsite Wastewater Systems Master Contractors*.**

## I. Introduction

The Bureau of Environmental Health Services (“Bureau”) proposes the attached Notice of Proposed Regulation amending R.61-56, *Onsite Wastewater Systems*. The Bureau further proposes amending requirements of R.61-56.1, *License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets*, and R.61-56.2, *Licensing of Onsite Wastewater Systems Master Contractors*, and merging R.61-56.1 and R.61-56.2 into R.61-56. This will entail repealing R.61-56.1 and R.61-56.2 and adding their provisions, as amended, to R.61-56. Additionally, the Department proposes merging R.61-55, *Septic Tank Site Evaluation Fees*, into R.61-56. This will entail repealing R.61-55 and adding its provisions, as amended, to R.61-56. The Bureau proposes these amendments and repeals for publication in the August 28, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in S.C. Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 *et seq.*, which enable the Department of Health and Environmental Control (“Department”) to promulgate regulations related to the disposal of sewage and establish fees. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

## II. Facts

1. Pursuant to R.61-56, the Department provides oversight for safe treatment and disposal of domestic wastewater to protect the health of families and communities. In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems).
2. The Department proposes amending R.61-56, *Onsite Wastewater Systems*, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program.
3. The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate

enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program.

4. The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

5. In the interest of efficiency, the Department proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56.

6. The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

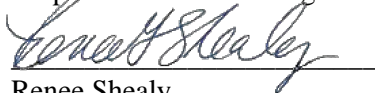
7. The Department had a Notice of Drafting published in the March 27, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received only one public comment by the April 27, 2020, close of the public comment period. Attachment C presents a summary of the public comment received and the Department's response.

8. The Bureau held twenty-two (22) separate meetings between August 2, 2017, and July 1, 2020, to solicit stakeholder input, including open-invitation public meetings, in person and virtually, and individual interest group discussions. A total of three hundred and seventy-five (375) stakeholders attended. The Bureau utilized the Department's website and agency calendar to advertise these meetings, as well as mailed invitation cards and emailed invitations to identified stakeholders. The Bureau received favorable feedback from these meetings.

9. Appropriate Department staff conducted an internal review of the proposed amendments on July 8, 2020.

### III. Request for Approval

The Bureau respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.



Renee Shealy  
Bureau Chief, Bureau of Environmental  
Health Services



Myra Reece  
Director, Environmental Affairs

#### Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the March 27, 2020, *State Register*
- C. Summary of Public Comments Received and Department Responses

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR R.61-56, *Onsite Wastewater Systems***

**August 13, 2020**

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

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

Statutory Authority: 1976 Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

61-55. Septic Tank Site Evaluation Fees.

61-56. Onsite Wastewater Systems.

61-56.1. License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets.

61-56.2. Licensing of Onsite Wastewater Systems Master Contractors.

**Preamble:**

Pursuant to R.61-56, the Department provides oversight for safe treatment and disposal of domestic wastewater to protect the health of families and communities. In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems).

The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program.

The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program.

The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option

to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56.

The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

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

The Department had a Notice of Drafting published in the March 27, 2020, South Carolina State Register.

#### Section-by-Section Discussion of Proposed Amendments and Repeals:

##### **R.61-55**

Repealed R.61-55 and combined it, as amended, with R.61-56 for simplification purposes.

##### **R.61-56**

Amended text throughout to correct capitalization, punctuation, spelling, formatting, codification, internal citations, and grammatical errors. Also amended “gallons per day” to the abbreviation “gpd” except for one instance. For brevity and space, these modifications are not listed. Corrected references to consistently identify “Registered Professional Engineers licensed in South Carolina.” Corrected numerical references to include both narrative number and parenthetical for consistency (e.g., “one (1) foot”).

##### **Statutory Authority**

Added S.C. Code Sections 44-55-825 and 44-55-827.

##### **Table of Contents**

Amended section titles, added new sections, and renumbered sections to reflect amendments made in text.

##### **Section 100 Purposes and Scope**

Amended: Deleted “human waste” and replaced with “domestic wastewater” for clarity.

Amended: Deleted “best and” and “cost affective” and added “effective” for grammatical purposes.

##### **In Section 101, Definitions and References, the following changes apply:**

Added: “Drain Field” and “Absorption Trench” to the “Alternative System” definition due to these being common names used for wastewater infiltration trench within the industry and public.

Added: Definition of “Bond.” Definition incorporated from 61-56.2

Added: Definition of “Cleaning.” Definition incorporated from R.61-56.1.

Added: Definition of “Construction.” Definition incorporated from R.61-56.1 and clarified.

Replaced: Definition of “Domestic Wastewater or Sewage” with separate definitions for “Domestic Wastewater” and “Sewage” to clarify and avoid duplication.

Added: Definition of “Dwelling” to encompass multiple types of residential structures for which an onsite wastewater system would be required, including tiny homes and park model RVs.

Amended: Definition of “Existing System” to replace “residence” with “dwelling” for internal consistency.

Relocated: Definition of “Gleying” so that the definitions remain alphabetized.

Added: Definition of “Gray Water” to accommodate its potential separation from other toilet wastewater within Appendix S, Appendix T, and Appendix U.

Added: Definition of “Gray Water Subsurface Reuse Systems” to address sites where gray water subsurface reuse is desired.

Added: Definition of “License.” Definition incorporated from R.61-56.1 and R.61-56.2.

Added: Definition of “Licensed Onsite Wastewater System Installer” to define the term and specify the scope of authorized activities for each “Tier 1 Installers,” “Tier 2 Installers,” and “Tier 3 Installers.”

Added: Definition of “Nonwater-Carried Sewage Treatment System” to address sites that do not qualify for a conventional, alternative, or engineered onsite wastewater system.

Amended: Definition of “Onsite Wastewater System” to add “Commercial Onsite Wastewater System” for clarity due to this term being used throughout the regulation. Also added language for clarification as it relates to gray water.

Added: Definition of “Other Sewage Holding System.” This term was added to encompass sewage holding systems other than onsite wastewater systems and self-contained toilets to which pumper/hauler requirements of the regulation are applicable.

Amended: Definition of “Perched Zone of Saturation” to remove “A soil horizon that is a perched water table soil horizon that is intermittently saturated with water above a soil horizon that is not saturated with water” and replace with “a saturated zone above an unsaturated zone” for simplicity.

Amended: Definition of “Permit” to add “nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system” to accommodate the addition of these new systems. Added language to describe the two parts of a permit, which are a permit to construct and approval to operate, for clarification. Also removed “survives” and replaced with “remains in effect for” for clarification.

Added: Definition of “Pumping and Transporting Vehicle” for clarification on the vehicles the Department approves for cleaning and transporting septage and sewage.

Amended: Definition of “Redox Depletions” to remove “seasonally” for accuracy because saturated conditions can occur at any time of the year.

Amended: Definition of “Redoximorphic Feature” to remove “seasonally” for accuracy because saturated conditions can occur at any time of the year.

Amended: Definition of “Repair” to remove “surface” and replace with “system,” added “malfunction,” and removed “relocating” and replaced with “relocation or replacement” for clarification.

Amended: Definition of “Repair or Replacement Area” to specify that the area will be identified on the Permit to Construct.

Added: Definition of “Revocation.” Definition incorporated from R.61-56.1 and R.61-56.2 and expanded to encompass licenses, permits, and approvals to operate.

Added: Definition of “Rippable Rock” to further define this term that was previously located in Appendix J.

Added: Definition of “Self-Contained Toilet.” Definition incorporated from R.61-56.1.

Added: Definition of “Septage.” Definition incorporated from R.61-56.1.

Added: Definition of “Sewage.” Definition incorporated from R.61-56.1.

Added: Definition of “Site” for clarification on an area or plot of land that can be evaluated for an onsite wastewater system.

Added: Definition of “Soils Report” for clarification due to Professional Soil Classifiers issuing these reports to the Department for the purpose of a site evaluation.

Amended: Definition of “Standard” for clarity and to encompass full scope of standards included in the regulation.

Added: Definition of “Subdivision” for clarification and to align with the proposed revisions to the onsite wastewater evaluation/permitting process.

Added: Definition of “Suspension.” Definition incorporated from R.61-56.1 and R.61-56.2 and expanded to include permits to construct, approvals to operate, and licenses.

Added: Definition of “Third-Party” for general clarification and to align with the proposed revisions of third-party involvement during the onsite wastewater evaluation/permitting process.

Added: Definition of “Wastewater Characteristics” to specifically identify what type of wastewater this regulation is referring to for clarity.

Added: Definition of “Wastewater Combustion System” to address sites that do not qualify for a conventional, alternative, or engineered onsite wastewater system.

Amended: Definition of “Wastewater Infiltration Trench” to remove language that is obsolete due to the addition of System Standard 100.

Section 101.2(1) & (2). Removed these sections to align with other Department regulations for consistency.

Section 101.2(3). Renumbered to adjust the codification.

### **Section 102 Onsite Wastewater System Site Evaluation and Fees**

Section 102.1(1). Added to clarify when site evaluation fees are due.

Section 102.1(2). Added to clarify which individuals are authorized to conduct soil evaluations for onsite wastewater systems.

Section 102.1(3). Added to clarify which individuals are authorized to produce system layouts of onsite wastewater systems.

Section 102.1(4). Added to clarify which particular systems Registered Professional Engineers must design.

Section 102.2(5). Added to propose a new approach to onsite wastewater system soil evaluations and system layouts for subdivisions.

Section 102.2. Incorporated and amended language from R.61-55 in reference to onsite wastewater site evaluation fees for clarity.

Section 102.3. Incorporated language from R.61-55 regarding how fees derived by onsite wastewater program will be utilized.

### **Section 103 Onsite Wastewater Systems (formerly Section 102 General)**

Section 103 (formerly 102) was renumbered to adjust the codification and retitled for clarity.

Section 103.1(1). Deleted “unit, building” and left the word “dwelling” to align with new definition of dwelling which encompasses many structures.

Section 103.1(2). Added clarification to require a permit for Nonwater-Carried Sewage Treatment Systems, Wastewater Combustion Systems, and Gray Water Subsurface Reuse Systems.

Section 103.1(3). Deleted “building” and added “dwelling, business, or other structure” for internal consistency. Added clarification regarding need for permit for Nonwater-Carried Sewage Treatment Systems, Wastewater Combustion Systems, and Gray Water Subsurface Reuse Systems.

Section 103.1(4). Deleted “permit holder” and added “property owner,” added “all onsite wastewater system(s) and their parts,” deleted “and operate as efficiently as possible, all facilities and systems which are installed pursuant to the permit,” added “previously issued,” and added “system parts may include, but are not limited to, sealed watertight tanks, lid(s), piping, aggregate, pump, and pump components” for clarification.

Section 103.1(5)(b). Rephrased the beginning of the provision to read “If a public entity owns the system, the entity” for clarity.

Section 103.1(5)(e). Added title of R.61-67.300 for clarification.

Section 103.2. Added title of R.61-9.505 for clarification.

Section 103.3. Added “Bureau of Water” and deleted “Department” for clarity. Deleted “assess the risk to public health and/or groundwater contamination” and added “determine if the waste may cause a violation of any drinking water standard under R.61-58.5 or may otherwise adversely affect the health of persons” for clarification per the Bureau of Water.

Section 103.4(3). Deleted “unsewered” so as not to duplicate the first sentence within this section that already details the campgrounds not being furnished with sewer service connections.

Deleted former Section 102.6 to simplify and avoid duplication of information in the large system standard (System Standard 150) and specialized system standard (System Standard 610).

### **Section 104 Application, Permit, Final Inspection, and Approval (formerly Section 103 Application, Permit, Approval)**

Section 104 (formerly 103) was renumbered to adjust the codification and retitled to encompass final inspection.

Section 104.1(1). Added “in a format as identified” and deleted “on the application form provided” as well as added “complete and accurate” and deleted “correct” for clarification and grammatical reasons.

Section 104.1(2). Added this section pertaining to written permission from property owners for the Department to access their lot for site evaluations to align with current application requirements.

Section 104.1(3). Deleted “and its boundaries” and added “The Department may require a legal description that includes lot boundary lengths” for clarification on required plats, deeds, or other legal document to ensure boundary lengths are included on all when submitted with the onsite wastewater system application.

Section 104.1(5). Added this section pertaining to backhoe pit requirement in certain regions of the state to improve efficiency of site evaluations.

Section 104.1(6). Replaced “may” with “shall” to clarify mandatory nature of requirements. Added “pertinent” when referring to marking property boundary lines and corners due to large acre lots not requiring all lines and corners be marked, just the ones positioned near the proposed onsite wastewater system. Added “as well as proposed drain field area” for clarification. Added “A site sketch shall be included on the application or as a separate attachment that reflects the items above, and any other items specified on the application” to align with current application requirements.

Section 104.1(7). Added language to clarify when the Department will not issue a permit, as well as to clarify that the Department has the right to modify a system layout submitted by a Professional Soil Classifier when deemed appropriate.

Section 104.2(1). Amended first sentence to include nonwater-carried sewage treatment systems, wastewater combustion systems, and gray water subsurface reuse systems. Amended first sentence to provide clarification on the need for both a permit to construct and approval to operate. Amended language to better clarify how applicants should submit requests for permit modifications and to expressly specify when a fee will be assessed for modifications. Added language referring to relocating or replacement of a system or system components.



Section 104.2(2). Added “permitted” and removed “onsite wastewater” to encompass all systems including nonwater-carried sewage treatment systems, wastewater combustion systems, and gray water subsurface reuse systems.

Former Section 103.2(3). Deleted language because it is no longer applicable.

Former Section 103.3. Deleted in entirety in light of updated language concerning final inspections and approval in the newly proposed Section 104.3.

Section 104.3. Added to clarify which individuals are authorized to conduct final inspections for onsite wastewater systems, how final inspections should be conducted and scheduled, what documentation should be submitted to the Department, and the Department process for issuance of Approval to Operate.

### **Section 200 Minimum Site Conditions**

Section 200.6. Renumbered to adjust the codification and titled to encompass all setbacks.

Section 200.6(1). Added “excluding solid pipes” language to denote that solid pipes do not require the same setbacks as the rest of the onsite wastewater system.

Section 200.6(1)(b). Deleted and relocated to the large system standard the language pertaining to setback to a receptor. Also deleted language pertaining to a public well because such language is stated in 200.6(1)(c).

Section 200.6(1)(d). Added “and retention ponds” language to address setbacks to retention ponds which were not previously addressed within the regulation.

Section 200.6(1)(f). Added “including any detention ponds (determined by maximum water elevation)” language to address setbacks to detention ponds which were not previously addressed within the regulation.

Section 200.6(1)(g). Added language to address setbacks to piped drainage ditches which were not previously addressed within the regulation.

Section 200.6(1)(h). Added language to address setbacks to inground pools which were not previously addressed within the regulation.

Section 200.6(1)(i). Added language to address setbacks to basements which were not previously addressed within the regulation.

Section 200.6(2). Removed “alternative” to reflect all system standards.

Section 200.6(3). Amended previous language in certain system standards pertaining to jurisdictional wetlands and relocated it here so that it reflects all system standards.

Section 200.7(1). Deleted language referring to impervious material and relocated language to section 200.7(2).

Section 200.8. Amended to correct internal citation.

### **Section 201 Minimum Requirements for Onsite Wastewater System Primary Treatment**

Section 201, Title. Amended section title to specify “Onsite Wastewater System.”

Section 201.1(4). Deleted “including condominiums, apartments, and mobile homes” to align with new definition of dwelling which encompasses many structures. Added “septic tank” to clarify minimum septic tank capacities required for multiple dwellings.

Section 201.2(1). Amended language referring to when a grease trap is required for clarification.

Section 201.2(2). Amended language so that any existing food service establishment that experiences a malfunction as a result of grease accumulation will be required to comply with all portions of the regulation for consistency.

Section 201.3. Added “requested by a Registered Professional Engineer” for clarification.

### **Section 202 Minimum Requirements for Onsite Wastewater System Final Treatment and Disposal Systems**

Section 202, Title. Amended section title to specify “Onsite Wastewater System.”

Section 202.1(8). Amended references to former Appendix R and former Appendix Q to align with new codification.

### **Section 203 Onsite Wastewater System Construction Criteria**

Section 203, Title. Amended section title to specify “Onsite Wastewater System.”

Section 203.8. Added “Class” in front of each roman numeral for clarification.

### **Section 204 Evaluation of Alternative Infiltration Trench Products**

Section 204.2(3)(a). Amended equation for “Trench Sidewalls” to replace the division sign with a multiplication sign.

Section 204.4. Deleted “backfill” and added “soil cover.” Deleted “Unless a lesser amount is approved by the department” to adequately describe the fill material.

### **Former Section 302 Enforcement Provisions**

Former Section 302. Deleted in its entirety so that its relevant terms could be consolidated with all other enforcement provisions in Section 800.

### **Former Section 303 Repeal and Date of Effect**

Former Section 303. Deleted section as obsolete.

### **Section 302 Changes in Use That Impact Existing Onsite Wastewater Systems (formerly Section 304)**

Section 302 (formerly 304) was renumbered to adjust to the deleted former Sections 302 and 303.

Amended language for clarification on submission of an application and receipt of a permit to construct for an upgrade or expansion prior to making alterations.

## **Former Section 305 Severability Clause**

Former Section 305. Deleted to eliminate duplication within the regulation.

## **Section 400 Appendices of Standards for Permitted Systems**

Section 400, Title. Section 400, Title, is amended to replace “Onsite Wastewater” with “Permitted” to encompass all permitted systems.

Section 400 section numbers have been deleted so only appendices represent each section.

Each Appendix has been renumbered to adjust codification.

Appendix A. Added Appendix A and associated diagram to represent a conventional onsite wastewater system for clarification.

Appendix B(1)(a). Amended language to require Registered Professional Engineers to design System Standard 150 systems.

Appendix B(1)(b). Added this deleted language from section 200.6 as this statement specifically refers to the large system standard.

Appendix B(1)(h)(iv). Amended to correct internal citation.

Appendix B(3)(g). Amended language for clarity and to encompass all system components.

Appendix C(1)(c). Added “Class” in front of the roman numerals for clarification.

Appendix C(1)(g). Removed “Level installations on slightly sloping sites can be considered if the above requirement can be met” to align with the first sentence of the paragraph stating system must not be used on sloping sites unless specified requirements are met.

Former Appendix B, Section 402.2(1). Deleted to allow serial distribution if it can be demonstrated.

Appendix C(2)(b). Deleted “maximum” and “the minimum width shall be eighteen (18) inches.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix C System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix C(2)(b).

Appendix D(1)(c). Added “Class” in front of the roman numerals for clarification.

Appendix D(1)(g). Removed “Level installations on slightly sloping sites can be considered if the above requirement can be met” to align with the first sentence of the paragraph stating system must not be used on sloping sites unless specified requirements are met.

Former Appendix C, Section 403.2(1). Deleted to allow serial distribution if it can be demonstrated.

Appendix D(2)(b). Deleted “maximum” and “the minimum width shall be eighteen (18) inches.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix D System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix D(2)(b).

Appendix E was renamed to align with title in Table of Contents.

Appendix E(1)(d). Amended language regarding sloping sites for clarification.

Appendix E(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be eighteen (18) inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix E(2)(c). Deleted “backfill” and added “of soil cover” for clarification. Fill caps are constructed from foreign soil brought to the site and not from backfill soil excavated from trenches on site. Deleted “see attached illustration” because language is not necessary.

Appendix E(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix E System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix E(2)(a).

Appendix F(1)(d). Amended language regarding sloping sites for clarification.

Appendix F(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be 18 inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix F(2)(c). Deleted “see attached illustration” for consistency.

Appendix F(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix F System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix F(2)(a).

Appendix G(1)(c). Amended to correct internal citation.

Appendix G(2)(a). Deleted “aggregate” and added “of approved aggregate” to clarify that only approved aggregate shall be utilized.

Appendix G System Standard Diagrams (A) and (B). Amended for diagram clarity and to add “Services” to the Department name.

Appendix H(1)(d). Amended language regarding sloping sites for clarification.

Appendix H(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be eighteen (18) inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix H(2)(d). Deleted “see attached illustration” for consistency.

Appendix H(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix H System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix H(2)(a).

Former Appendix H, Section 408.1(1). Deleted to increase systems versatility to address varying site conditions.

Former Appendix H, Section 408.1(2). Deleted language because it is no longer applicable.

Appendix I(1)(d). Deleted table titled “Factors (F) for Maintaining Equivalent Infiltrative Surface Area” to avoid duplication with the system standard diagram. Deleted internal reference to the system diagram.

Appendix I(2)(a). Deleted “shall always be kept as narrow as possible” for simplicity.

Appendix I System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align the equation presented in the table on the diagram to the equation presented in section 204.2. Also corrected reference to total infiltrative surface area per linear foot of conventional type trench to read 5.33 sq ft/ft.

Appendix J(1)(a). Deleted internal citation to reflect the deletion of former Section 409.1(9)(b).

Former Appendix I, Section 409.1(9)(b). Deleted language because a more detailed definition of Ripplable Rock was added in Section 101.1 Definitions.

Appendix J(2)(a). Deleted “aggregate” and added “of approved aggregate” to clarify that only approved aggregate shall be utilized.

Appendix J System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Appendix K. Added Appendix K and associated diagram to represent an alternative trench width and depth system with fill cap to allow for conservative components of two different systems to be used in conjunction with one another depending on site conditions.

Former Appendix J, Section 410.1(3). Deleted language to increase systems versatility to address varying site conditions.

Former Appendix J, Section 410.2(1). Deleted language to increase systems versatility to address varying site conditions.

Appendix L(2)(c). Deleted “see attached sketch” for consistency.

Former Appendix J, Section 410.2(9). Deleted text and table as the same table is displayed in the system standard diagram.

Appendix L System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Appendix M System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix L, Section 412.1(6). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Former Appendix L, Section 412.1(9). Deleted language due to the deletion and relocation of Appendix L, Section 412.1(6).

Appendix N(2)(b) and (2)(b)(ii). Amended to delete “see ref. sketch” for consistency.

Appendix N System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix M, Section 413.1(1). Deleted language due to the deletion and relocation of Appendix M, Section 413.1(9).

Former Appendix M, Section 413.1(9). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix O(2)(b)(i). Deleted “seasonal” for accuracy because saturated conditions can occur at any time of the year.

Appendix O(2)(b)(ii) and (iii). Added language regarding individual system layout.

Appendix O(2)(b)(vii) and (viii). Added “class” in front of roman numeral for clarification. Deleted “see attached illustration” for consistency.

Appendix O System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name. Added Diagrams B and C for clarification and demonstration.

Former Appendix N, Section 414.1(6). Deleted language due to the deletion and relocation of Former Appendix N, Section 414.1(8).

Former Appendix N, Section 414.1(8). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix P(2)(c)(ii). Added language for further clarification regarding design and installation of low-pressure pipe distribution.

Appendix P System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix O(2)(b). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix Q(1)(b)(ii). Added language to clarify offsets to environmentally sensitive waters.

Appendix Q(1)(b)(v). Added language at the request of stakeholder input to address operation and maintenance concerns.

Appendix Q(1)(d). Added language to further define reporting requirements of installation (i.e. requirements related to submission of as-built plans and notification of construction schedule).

Appendix R(1)(b). Deleted “and shall range in size from one half (1/2) inch to two and one half (2 ½) inches. Fines are prohibited”. Due to increased technology, approved aggregate for this system standard is not limited to just gravel.

Appendix R(1)(c). Added “utilizing tire chips or gravel or a similar type of approved product.” Due to increased technology, approved aggregate for this system standard is not limited to just gravel.

Appendix R(1)(e). Deleted “A minimum one (1) percent fall (12 inches per 100 feet) shall be utilized” to increase systems versatility to address varying site conditions.

Appendix R(1)(o). Added “inspection port” for clarification.

Appendix R System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name.

Appendix S. Added Appendix S to represent Nonwater-Carried Sewage Treatment Systems for areas that would not qualify for a traditional onsite wastewater system.

Appendix T. Added Appendix T to represent Wastewater Combustion Systems for areas that would not qualify for a traditional onsite wastewater system.

Appendix U. Added Appendix U to represent Gray Water Subsurface Reuse Systems to address sites where gray water subsurface reuse is desired.

### **Section 500 – Long-Term Acceptance Rate Standard for Onsite Wastewater Systems (formerly 500 Appendix Q – Long-Term Acceptance Rate Standard for Onsite Wastewater Systems)**

Section 500 (formerly 500 Appendix Q) was renumbered to adjust the codification.

Section 500, chart. Deleted “Sandy” and added “Sand” to align with the grammatical structure of the other soil characteristic descriptions in the table.

Section 500, chart. Added soil texture “Silt.” Silt is one of the soil textures described in the USDA-NRCS Field Book for Describing and Sampling Soils.

### **Section 501 – Peak Sewage Flow Rate Standard (formerly 501 Appendix R – Peak Sewage Flow Rate Standard)**

Section 501 (formerly 501 Appendix R) was renumbered to adjust the codification.

Section 501, chart. Added “for domestic wastewater only, no infectious waste” to the Mortuary row to delineate between which types of waste the onsite wastewater system will treat.

Section 501, chart. Added “Hotel” to the Motel row for clarification.

Section 501, chart. Added “Dwelling” to the Residential row and deleted the examples for residential to align with the new dwelling definition. The definition encompasses multiple residential structures for which an onsite wastewater system would be required.

Section 501, chart. Added a row for “Residential Out-Building” to accommodate the current demand for these types of systems.

### **Section 502 – Onsite Wastewater Pump System Standard (formerly 600 Appendix S – Onsite Wastewater Pump System Standard)**

Section 502 (formerly 600 Appendix S) was renumbered to adjust the codification.

Section 502.1(3). Deleted “seasonal” for simplification because saturated conditions can occur at any time of the year.

Section 502.1(5). Amended language pertaining to pump tank capacity. Proposing pump tank size be no less than 500 gallons for consistency and to assist in maintaining the minimum pump rate.

Section 502.2(1). Deleted “the Standard for Determining Sewage Flow Rates from Commercial and Recreational Establishments” and added “Section 501, Peak Sewage Flow Rate Standard” for clarity and accuracy.

Section 502.3(2). Amended language pertaining to form 1739. Form 1739 has been replaced by the onsite wastewater permit to construct.

Section 502.4(6). Added language to state that force mains crossing ditches, bodies of water, under driveways, and parking areas must be encased within another pipe to withstand damage for extra protection and safety reasons.

Section 502.6(1). Amended language pertaining to form 1739. Form 1739 has been replaced by the onsite wastewater permit to construct.

### **Section 503 – Minimum Design Standards for Tank Construction (formerly 700 Appendix T – Minimum Design Standards for Tank Construction)**

Section 503 (formerly 700 Appendix T) was renumbered to adjust the codification.

Section 503.1. Deleted “disposal” to align with the revisions that describe septic systems as onsite wastewater systems, not onsite wastewater disposal systems.

Section 503.2(1) and (7). Deleted “disposal” to align with the revisions that describe septic systems as onsite wastewater systems, not onsite wastewater disposal systems.

Section 503.2(2) and (6). Amended to change “make” to “submit a” for clarity.

Section 503.3(17). Amended language to read “risers or manhole covers, as applicable” for clarity.

Section 503.3(20). Amended “local health department” to read “Department” for clarity and accuracy.

### **Section 504 – Fiberglass Reinforced Plastic Tanks Standard (formerly 800 Appendix U – Fiberglass reinforced plastic tanks)**



Section 504 (formerly 800 Appendix U) was renumbered to adjust the codification.

Section 504. Amended to change “assure” to “to ensure” for clarity.

Section 504.1. Amended “herein” to read “within this regulation” for clarity, and deleted second use of word “herein” for clarity.

Section 504.1(7). Amended “are to present” to read as “shall have” for clarity.

Section 504.3(1)(d). Amended to change “Division of Onsite Wastewater Management” to “Department” for consistency and clarity.

### **Section 505 – Thermoplastic Tanks Standard (formerly 900 Appendix V – Thermoplastic Tanks Standard)**

Section 505 (formerly 900 Appendix V) was renumbered to adjust the codification.

Section 505(2). Amended to change “Division of Onsite Wastewater Management” to “Department” for consistency and clarity.

Section 505(3). Added language to require that thermoplastic tank manufacturers renew their product approval every five years for consistency.

### **Section 600 License to Clean Onsite Wastewater Systems, Self-Contained Toilets, and Other Sewage Holding Systems (i.e., Pumper/Hauler)**

Section 600 (including language formerly appearing in R.61-56.1) was added to encompass pumper/hauler licensing.

Section 600.1. Added section from R.61-56.1, as amended for clarification, to incorporate prohibition against cleaning onsite wastewater systems, self-contained toilets, and other sewage holding systems without a license.

Section 600.2. Added section to incorporate R.61-56.1’s requirements for licenses, applications, and fees related to the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems, amended for clarification and effective administration. This section includes information for how license applications should be submitted, parameters for vehicle inspections, testing requirements, and fees.

Section 600.3. Added section from R.61-56.1 allowing other governmental entities to have requirements that are more stringent than state requirements, as amended for clarification.

Section 600.4. Added section allowing sewer providers using pumping and transporting vehicles for the sole purpose of maintaining their sewer systems to be exempt from the licensing requirements of Section 600 of the regulation.

### **Section 601 Vehicles, Equipment, and Practices**

Section 601 (including language formerly appearing in R.61-56.1) was added to encompass requirements related to vehicles, equipment, and practices for removal and transport of septage and sewage.

Section 601.1. Added section from R.61-56.1 establishing vehicles requirements related to pumping. Updated language to expressly note “hazard to the public health and the environment.” Added reference to “sewage” in addition to septage.

Section 601.2. Added section from R.61-56.1 specifying proper cleaning processes for pumpers, as amended for clarification.

Section 601.3. Added section from R.61-56.1 specifying disposal requirements for the septage material, as amended to add reference to “sewage” in addition to septage.

Section 601.4. Added section from R.61-56.1 establishing supervisory requirements for the licensee, as amended for clarification.

### **Section 602 Records of Operation**

Section 602. Added section in its entirety (including language formerly appearing in R.61-56.1) setting forth the record keeping requirements for the handling and disposal of septage material.

### **Section 700 Licensing of Installers**

Section 700.1 Added section (including language formerly appearing in R.61-56.1 and R.61-56.2, as amended) identifying requirements for licenses, application, and fees associated with the licensure of an installer. This includes the three tiers of licensing and associated fees and eligibility requirements.

### **Section 701 Continuing Education and Training**

Section 701. Added section in its entirety establishing continuing education requirements and provisions for implementation.

### **Section 702 Practice, Procedure, and Quality Control**

Section 702. Added section in its entirety, including relevant language from R.61-56.2, as amended, setting forth operating constraints within each tier of installer licensure and quality control measures from the Department.

### **Section 703 Bonding and Insurance Requirements: Tier 3 Installers**

Sections 703.1, 703.2, and 703.3. Added provisions from R.61-56.2 requiring bonding and insurance for Tier 3 installers.

### **Section 704 Transition to Tiered Licensure**

Section 704. Added section in its entirety defining how current onsite wastewater installers will transition into their appropriate licensing tier on the effective date of the regulatory amendments.

### **Section 800 Enforcement**

Section 800. Added section in its entirety to consolidate in one section all enforcement provisions pertaining to violations of the regulation, violations of permits, and suspension and revocation of Department permits to construct, approvals to operate, and licenses. This section includes enforcement provisions from the

current R.61-56, R.61-56.1, and 61-56.2 with amendments as needed for clarity, comprehensiveness, and effective regulatory oversight.

### **Section 801 Severability Clause**

Section 801. This section added to shift it from its current location in the regulations, for clarity.

#### **R.61-56.1**

Repealed R.61-56.1 and combined it, as amended, with R.61-56 to streamline processes.

#### **R.61-56.2**

Repealed R.61-56.2 and combined it, as amended, with R.61-56 to streamline processes.

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

Interested persons may submit comment(s) on the proposed amendments and repeals to David Vaughan of the Bureau of Environmental Health Services; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; fax at (803)896-0645; or email at [vaughadr@dhec.sc.gov](mailto:vaughadr@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments and repeals during its November 12, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

### **Preliminary Fiscal Impact Statement**

There is no anticipated additional cost to the Department or state government due to any requirements of this amendment.

### **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: 61-55, Septic Tank Site Evaluation Fees; 61-56, Onsite Wastewater Systems; 61-56.1, License To Construct Or Clean Onsite Sewage Treatment And Self-Contained Toilets; and 61-56.2, Licensing Of Onsite Wastewater Systems Master Contractors

**Purpose:** The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program. The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program. In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56. The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

**Legal Authority:** 1976 Code Section(s) 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

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

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

The proposed amendments and repeals are needed and reasonable, as they will provide clarification regarding the requirements and standards contained in R.61-56 and consistency with the latest scientific, industrial, and technological changes in onsite wastewater system design, construction, and installation. Furthermore, the proposed amendments will simplify the licensure of those operators that clean or pump sewage treatment and disposal systems and, for organization and clarity, provide a tiered structure for the licensure of operators that construct or install these systems. The proposed amendments will also serve to modernize the regulation and streamline permitting procedures to improve overall effectiveness of the Department's administration of the regulation.

#### **DETERMINATION OF COSTS AND BENEFITS:**

**Internal Costs:** Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these revisions.

**External Costs:** The proposed revisions do not increase any fees charged by the Department under the current regulations. The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-

56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

Benefits: These amendments upgrade overall quality and practicality, improve clarity and consistency, reflect changes in design, construction, and installation of onsite wastewater system nomenclature and technology, separate the licensing of pumper/haulers and installers, provide for tiered licensure, streamline permitting, clarify existing definitions, and add new definitions and standards for site and system requirements.

#### UNCERTAINTIES OF ESTIMATES:

None.

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

There is no anticipated negative environmental or public health effect resulting from the proposed amendments and repeals of these regulations. Positive benefits include fostering increased installer competency through new continuing education requirements and the tiered system of licensure according to system complexity. The additions also enable the Department to focus efforts on ensuring installations are performed in accordance with the issued permit while allowing additional input in the soil evaluation and system layout stages from professionally certified persons.

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

The negative effect on the environment and public health if the proposed amendment of this regulation is not implemented would be less efficiency and clarity for industry and reduced effectiveness and efficiency in the Department's oversight of the disposal of seepage and sewage.

#### **Statement of Rationale:**

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program. The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program. In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to

R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56. The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

~~61-55. Septic Tank Site Evaluation Fees.~~

~~SECTION I. PURPOSE~~

~~A major factor influencing the health of individuals where public sewer is not available is the proper treatment and disposal of human excreta and other domestic wastes. To this end and to protect the environment from contamination by untreated sewage, the Department of Health and Environmental Control has established and maintained a conscientious program of designing individual sewage treatment and disposal systems, evaluating sites for suitability for individual sewage treatment and disposal systems and approving the installations of such systems. This direct service program is conducted primarily by public health professionals working in county health departments. Funding for the program comes from state appropriations and the fees authorized by this regulation.~~

~~SECTION II. DEFINITIONS~~

~~The following definitions shall apply in the interpretation and enforcement of this regulation.~~

~~A. DEPARTMENT—The South Carolina Department of Health and Environmental Control.~~

~~B. HEALTH AUTHORITY—An authorized representative of the South Carolina Department of Health and Environmental Control.~~

~~C. INDIVIDUAL SEWAGE TREATMENT AND DISPOSAL SYSTEM—A system designed for the treatment and disposal of sewage by a septic tank and soil absorption trench. The term also includes alternatives to septic tanks and soil absorption trenches when such alternatives are approved by the Health Authority under the provisions of R.61-56, *Individual Sewage Treatment and Disposal Systems*.~~

~~D. PERMIT—A written statement issued by the Health Authority permitting the construction of an individual sewage treatment and disposal system under the provisions of R.61-56, *Individual Sewage Treatment and Disposal Systems*.~~

~~SECTION III. FEES~~

~~—The Department shall charge a fee of \$150.00 to evaluate the site of a proposed individual sewage treatment and disposal system. This fee shall be paid prior to the evaluation of any site for which an application for a permit has been made.~~

~~SECTION IV. OTHER~~

~~A. DESIGNATION OF USE~~

Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with Environmental Health programs.

## B. UNCONSTITUTIONALITY CLAUSE

Should any chapter, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby. [Repealed].

61-56. Onsite Wastewater Systems.

Statutory Authority: ~~1976~~-S.C. Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

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~~100 PURPOSES and SCOPE~~ **100. Purposes and Scope.**

(1) A major factor influencing the health of individuals where public wastewater treatment facilities are not available is the proper onsite treatment and disposal of domestic wastewater. –Diseases such as dysentery, cholera, infectious hepatitis, typhoid, and paratyphoid are transmitted through the fecal contamination of food, water, and the land surface largely due to the improper treatment and disposal of domestic wastewater.- For this reason, every effort should be made to prevent such hazards and to treat and dispose of all ~~human~~ domestic wastewater through the practical application of the ~~best and most cost effective~~ effective technology available.

(2) Safe treatment and disposal of domestic wastewater is necessary to protect the health of families and communities, and to prevent the occurrence of public health nuisances. Domestic wastewater can be rendered ecologically safe and public health can be protected if such wastes are disposed of so that:

- ~~A.~~(a) They will not contaminate any drinking water supply.
- ~~B.~~(b) They will not give rise to a public health hazard by being accessible to insects, rodents, or other possible carriers, which may come into contact with food or drinking water.
- ~~C.~~(c) They will not give rise to a public health hazard by being accessible to children or adults.



~~D.~~(d) They will not violate federal and state laws or regulations governing water pollution or sewage disposal.

~~E.~~(e) They will not pollute or contaminate any waters of the state.

~~F.~~(f) They will not give rise to a public health nuisance.

(3) Where the installation of an onsite wastewater system is necessary, the basic principles of design, construction, installation, operation and maintenance shall be followed.

## ~~101 DEFINITIONS AND REFERENCES~~ **101. Definitions and References.**

### ~~A. DEFINITIONS:~~ 101.1. Definitions.

~~ACCESSIBILITY~~Accessibility - S.C. Code Sections 44-55-1410 and 5-31-2010 authorizes county and municipal governments to determine if a wastewater treatment facility is accessible to properties. Where annexation or easements to cross adjacent property are required to connect to a wastewater treatment facility, the wastewater treatment facility shall not be considered accessible.

~~ALTERNATIVE SYSTEM~~Alternative System - A system incorporating design modifications of the proposed subsurface wastewater infiltration trench area (drain field) or absorption trench geometry for the purpose of achieving compliance with required setbacks and offset to the zone of saturation and/or restrictive horizons. No such system shall be utilized unless the Department has established a specific standard.

~~ALTERNATIVE INFILTRATION TRENCH PRODUCTS~~Alternative Infiltration Trench Products - Products specifically designed to replace or eliminate the aggregate typically utilized in subsurface infiltration trenches. Such products must be approved for use by the Department and must adhere to required equivalency values established herein.

~~APPLICANT~~Applicant - A property owner, general contractor or agent representing the property owner, or developer who seeks a permit to construct and operate an onsite wastewater system.

Bond - A sum of money set aside (Surety Bond) to insure completion of work under a contract.

~~CAMPGROUND~~Campground - An organized camp in which campsites are provided for use by the general public or certain groups.

~~CANAL~~Canal - An artificial waterway used for navigation, drainage, or irrigation.

Cleaning - The removal and transportation of septage from an onsite wastewater system, self-contained toilet, or other sewage holding system to an approved disposal location.

~~COLOR CHARTS~~Color Charts (Munsell System or equivalent) - Charts bearing various color chips established by a recognized color system which uses three elements—hue, value, and chroma—to make up a specific color notation. The notation is recorded ~~if~~ in the form of hue, value, and chroma (e.g., 10YR 5/6). The three attributes of color are arranged in the system in orderly scales of equal visual steps, which are used to measure and describe color accurately under standard conditions of illumination by comparing soil samples to color chips on various charts.

Construction - The installation, upgrade, or expansion of an onsite wastewater system.

~~CONVENTIONAL SYSTEM~~Conventional System - An onsite wastewater system that utilizes a network of conventional wastewater infiltration trenches installed in the naturally occurring soil for the treatment and disposal of domestic wastewater.

~~CRITICAL AREA~~Critical Area - S. C. Code Section 48-39-10(J) defines critical area as the following: 1) coastal waters; 2) tidelands; 3) beaches; 4) beach/dune systems which are the areas from the mean high-water mark to the setback line as determined in S. C. Code Section 48-39-280.

~~CURTAIN DRAIN~~Curtain Drain - A subsurface interceptor drain that is installed to collect and redirect seasonal groundwater as it flows through the soil profile to an appropriate discharge point.

~~DEPARTMENT~~Department - The South Carolina Department of Health and Environmental Control.

~~DITCH~~Ditch - A long narrow excavation; intended for the ~~purposes~~ purpose of drainage and/or irrigation.

~~DOMESTIC WASTEWATER OR SEWAGE~~Domestic Wastewater - The untreated liquid and solid human body waste and the liquids generated by water-using fixtures and appliances, including those associated with food service operations. For the purposes of this regulation, domestic wastewater shall not include industrial process wastewater.

Dwelling - A self-contained unit used by one (1) or more households as a home, such as a house, apartment, mobile home, house boat, tiny house, park model RV, RV or camper, or other substantial structure that provides living facilities for one (1) or more persons, including permanent or semi-permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~EFFLUENT~~Effluent - The liquid discharged from a septic tank, effluent pump station, or other sewage treatment device.

~~EMBANKMENT~~Embankment - A bank of soil with at least two (2) feet of vertical height from top to bottom.

~~ENVIRONMENTALLY SENSITIVE WATERS~~Environmentally Sensitive Waters - Outstanding resource waters (ORW), Shellfish Harvesting Waters (SFH), and Trout-Natural Waters (TN) as defined in R.61-68 and classified in R.61-69, and including lakes greater than forty (40) acres in size and the Atlantic Ocean, regardless of their classifications in R.61-69.

~~EXISTING SYSTEM~~Existing System - An onsite wastewater system, which has received final construction approval or has been serving a legally occupied ~~residence~~ dwelling or structure.

~~EXPANSIVE SOILS~~Expansive Soils - Soils containing significant amounts of expansible-layer clay minerals (smectites) as evidenced in the field by classifications of “Very Sticky,” “Very Plastic” and where “Slickensides” are present when evaluated in accordance with the Field Book. Such soil horizons are considered to be restrictive for onsite wastewater systems.

~~FAILING ONSITE WASTEWATER SYSTEM~~Failing Onsite Wastewater System - An onsite wastewater system that is discharging effluent in an improper manner or has ceased to function properly.

~~FIBERGLASS REINFORCED PLASTIC~~Fiberglass Reinforced Plastic - A fibrous glass and plastic mixture that exhibits a high strength to weight ratio and is highly resistant to corrosion.

~~FIELD BOOK FOR DESCRIBING AND SAMPLING SOILS~~Field Book for Describing and Sampling Soils (Field Book) - A field guide published by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) for making or reading soil descriptions and for sampling soils, as presently practiced in the USA.

~~FINAL TREATMENT AND DISPOSAL~~Final Treatment and Disposal - Ultimate disposition of the effluent from a septic tank or other treatment device into the soil.

~~FLEXURAL MODULUS OF ELASTICITY~~Flexural Modulus of Elasticity - A measure of stiffness of a material.

~~FLEXURAL STRENGTH~~Flexural Strength - A measure of the ability of a material to withstand rupture when subjected to bend loading.

~~GEL COATING~~Gel Coating - A specially formulated polyester resin, which is pigmented and contains filler materials, the purpose of which is to provide a smooth, pore-free, watertight surface for fiberglass reinforced plastic parts.

Gleying - Bluish, greenish, or grayish colors in the soil profile that are indicative of markedly reduced conditions due to prolonged saturation. This condition can occur in both mottled and unmottled soils, and can be determined by using the gley page of the soil color charts.

Gray Water - Domestic wastewater that is generated by water-using fixtures and appliances such as sinks (excluding kitchen sinks), showers, and laundry but that does not come into direct contact with human excreta or solid organic matter.

Gray Water Subsurface Reuse Systems - A system designed to separately collect and treat gray water and subsequently dispose of gray water by reusing it as part of a subsurface irrigation system. This definition does not include any system designed to reuse gray water for any purpose, or by any means, other than subsurface irrigation. This definition also does not include any system that reuses or recirculates gray water within the confines of (i.e., via the plumbing within) a dwelling unit, building, business, or other structure.

~~GREASE TRAP~~Grease Trap - A device designed to separate and store the oil and grease component of wastewater discharged from facilities that prepare food.

~~GLEYPING~~— Bluish, greenish, or grayish colors in the soil profile that are indicative of markedly reduced conditions due to prolonged saturation. This condition can occur in both mottled and unmottled soils, and can be determined by using the Gley page of the soil color charts.

~~INDUSTRIAL PROCESS WASTEWATER~~Industrial Process Wastewater - Non-domestic wastewater generated in a commercial or industrial operation that may or may not be combined with domestic wastewater.

License - The official document issued by the Department authorizing a person to be responsible for the construction, repair, or cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems.

Licensed Onsite Wastewater System Installer (Installer) - A person authorized under this regulation to construct or repair onsite wastewater systems. The specific scope of activities authorized depends on the installer's tier of licensure, as follows:

(1) Tier 1 - May install all gravity-fed residential onsite wastewater systems. This level is not authorized to conduct repairs on existing onsite wastewater systems.

(2) Tier 2 - May install all Tier 1 systems plus pumps, grease traps, systems with curtain drains, elevated infiltration systems, mounded systems, and all commercial onsite wastewater systems, large onsite wastewater systems, and community onsite wastewater systems. This level is also authorized to conduct repairs on existing onsite wastewater systems.

(3) Tier 3 - May install all Tier 1 and 2 systems plus all Standard 610 - Specialized Onsite Wastewater Systems. This level is also authorized to conduct repairs on existing onsite wastewater systems.

~~LONG TERM ACCEPTANCE RATE~~Long-Term Acceptance Rate (LTAR) - The long-term rate, typically expressed in gallons per day (gpd) per square foot of trench bottom area, at which a mature onsite wastewater system can continue to accept effluent without hydraulic failure occurring. This flow rate is a result of the interaction between unsaturated soil hydraulic conductivity and biomat resistance.

~~MOTTILING~~Mottling - Morphological features of the soil revealed as spots or blotches of different color or shades of color interspersed with the dominant matrix color.

~~NSF STANDARD~~NSF Standard #14 - A National Sanitation Foundation Standard relating to thermoplastics, which have been tested and found satisfactory for potable water supply uses, ~~and for~~ drains, waste, and vent applications.

Nonwater-Carried Sewage Treatment System - A self-contained system for waste treatment (such as a biological, composting, or incinerating toilet) that stores, treats, and renders human urine and feces inert without the use of water and that is designed to not discharge into the soil, onto the soil surface, into bodies of water, or other external media.

~~ONSITE WASTEWATER SYSTEM~~Onsite Wastewater (OSWW) System - A system, generally consisting of a collection sewer, septic tank(s), and subsurface wastewater infiltration area, designed to treat and dispose of domestic wastewater through a combination of natural processes that ultimately result in effluent being transmitted through the soil, renovated, and ultimately discharged to groundwater. An onsite wastewater system shall also include an onsite wastewater system, as described above, for the treatment and disposal of gray water.

(1) Small Onsite Wastewater System - An individual system serving an individually deeded ~~residence~~ dwelling or business that generates less than fifteen hundred (1500) ~~gallons per day~~ gpd of domestic wastewater. Management and maintenance of each system is the responsibility of the individual property owner.

(2) Large Onsite Wastewater System (General) - An individual system that treats and disposes of domestic wastewater discharges in excess of fifteen hundred (1500) ~~gallons per day~~ gpd.

(a) Privately Owned Large System - A large onsite wastewater collection and treatment system that serves one (1) piece of deeded property such as a school, adult residential care facility, rental apartment complex, shopping center, campground, mobile home park, office complex, etc. Management and maintenance of the system is the responsibility of the individual property owner.

(b) Community (Cluster) System - A wastewater collection and treatment system that provides shared collection, treatment, and disposal of domestic wastewater from multiple parcels or multiple units of individually deeded property. Such a system might serve a small subdivision or a condominium complex.

It is imperative with such systems that some form of common ownership and management be established and approved by the Department.

(c) Commercial Onsite Wastewater System - An onsite wastewater system generating domestic wastewater or sewage that serves a facility, other than a private dwelling, intended for the engagement of commerce.

~~OPERATION AND MAINTENANCE~~Operation and Maintenance - Activities including tests, measurements, adjustments, replacements, and repairs that are intended to maintain all functional units of the onsite wastewater system in a manner that will allow the system to function as designed.

Other Sewage Holding System - Components of a sewer system or holding tank not related to an onsite wastewater system, including grease traps.

~~PARENT MATERIAL~~Parent Material - The unconsolidated and chemically weathered mineral or organic matter from which the column of soils is developed by pedogenic processes.

~~PERCHED ZONE OF SATURATION~~Perched Zone of Saturation (Episaturation) - A soil horizon that is a perched water table soil horizon that is intermittently saturated with water above a soil horizon that is not saturated with water. A zone of saturation above an unsaturated zone.

PERMITPermit - A written document or documents issued by the Department authorizing the construction and operation of an onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system under this regulation. The term “permit” includes the permit to construct and the approval to operate, both of which are required prior to operation of a system under this regulation. Upon installation of a permitted system and Department issuance of an approval to operate, the construction and operation permit survives-remains in effect for the life of the onsite wastewater system that it authorizes.

PLASTICITYPlasticity - The degree to which “puddled” or reworked soil can be permanently deformed without rupturing. The evaluation is made in accordance with the Field Book by forming a roll (wire) of soil at a water content where the maximum plasticity is expressed.

~~PRIMARY TREATMENT~~Primary Treatment - The initial process to separate solids from the liquid, digest organic matter, and store digested solids through a period of detention and biological conditioning of liquid waste.

~~PROFESSIONAL SOIL CLASSIFIER~~Professional Soil Classifier (“PSC”) - A person with special knowledge of the physical, chemical, and biological sciences applicable to soils as natural bodies and of the methods and principles of soil classification as acquired by soils education and soil classification experience in the formation, morphology, description, and mapping of soils; is qualified to practice soil classifying; and who has been duly registered by the South Carolina State Board of Registration for professional soil classifiers.

~~PUBLIC ENTITY~~Public Entity - Any organizations such as a city, town county, municipality, or special purpose sewer district.

~~PUBLIC WATER SYSTEM~~Public Water System - Any publicly or privately owned waterworks system that provides drinking water for human consumption; as defined in R.61-58, State Primary Drinking Water Regulations.

~~PUMP CHAMBER~~Pump Chamber - A watertight, covered receptacle designed and constructed to receive and store the discharge from a septic tank until such time that the effluent is pumped to a final treatment and disposal site.

Pumping and Transporting Vehicle - A vehicle approved by the Department for the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems and the transporting of septage and sewage to an approved disposal site.

~~RECEPTOR~~Receptor - Any water well or surface water of the state, including estuaries.

~~REDOX DEPLETIONS~~Redox Depletions - Morphological features that are formed by the processes of reduction and translocation of iron and manganese oxides in ~~seasonally~~ saturated soils. These features may be revealed as spots, blotches, or streaks and are lighter shades of color compared with the dominant matrix color.

~~REDOXIMORPHIC FEATURES~~Redoximorphic Features - Morphological features that are formed by the processes of reduction, translocation, and oxidation of iron and manganese oxides in ~~seasonally~~ saturated soils. These include redox concentrations, redox depletions, and reduced matrices.

~~REMOTE SUBSURFACE WASTEWATER INFILTRATION AREA~~Remote Subsurface Wastewater Infiltration Area - A subsurface wastewater infiltration area that is not situated within the legal boundaries of the primary lot or tract that it serves.

~~REPAIR~~Repair - Any work performed on an existing onsite wastewater system for the purposes of correcting a ~~surface system~~ failure, malfunction, or ~~other~~ unauthorized discharge, enhancing system performance, ~~relocating or relocation or replacement of~~ the entire system or system components, provided there are no changes in use that would impact the existing system.

~~REPAIR OR REPLACEMENT AREA~~Repair or Replacement Area - ~~An area reserved for the installation of additional wastewater infiltration trenches.~~ An area identified on the permit to construct reserved for the installation of additional wastewater infiltration trenches.

~~RESTRICTIVE HORIZON~~Restrictive Horizon - A soil horizon that is capable of severely retarding the movement of groundwater or effluent; and may be brittle and cemented with iron, aluminum, silica, organic matter, or other compounds. Restrictive horizons may occur as fragipans, iron pans, organic pans, or shallow rock formations; and are recognized by their resistance in excavation and auger boring.

~~RESIN~~Resin - Any number of commercially available polyester products used in the manufacture of fiberglass reinforced products which serve to contribute mechanical strength, determine chemical and thermal performance, and prevent abrasion of fibers, and which must be physically and/or chemically determined to be acceptable for the environment, and free from inert filler materials.

Revocation - The permanent withdrawal of rights and privileges granted by a license or an onsite wastewater system permit or approval, as applicable.

Rippable Rock - The rippability of rock material is a measure of its ability to be excavated with conventional excavation equipment (e.g., rubber-tired backhoe or mini excavator).

~~SAPROLITE~~Saprolite - Soft, friable, thoroughly decomposed rock that has formed in place by chemical weathering, retaining the fabric and structure of the parent rock, and being devoid of expansive clay.

Unconsolidated saprolite can be dug using a hand auger or knife. Consolidated saprolite cannot be penetrated with a hand auger or similar tool, and must be dug with a backhoe or other powered equipment.

~~SEALANT~~Sealant - A bonding agent specifically designed to bond joining sections of fiberglass reinforced plastic products to each other in such a manner so as to create a durable long lasting, watertight seal, which does not alter the structural integrity or strength of the two (2) joined fiberglass products.

Self-Contained Toilet - A single or multiple-unit toilet and holding tank combination.

Septage - The mixture of solids and liquids removed during cleaning of a septic tank, grease trap, any other part of an onsite wastewater system, self-contained toilet, or other sewage holding system which receives domestic sewage; this includes the liquid, solid, and semi-solid materials which settle to the bottom of transport containers.

~~SEPTIC TANK~~Septic Tank - A watertight, covered receptacle designed and constructed to receive the discharge of domestic wastewater from a building sewer, separate solids from the liquid, digest organic matter, store digested solids through a period of detention and biological conditioning of liquid waste, and allow the effluent to discharge for final treatment and disposal.

~~SERIAL DISTRIBUTION~~Serial Distribution - A method for effluent distribution on sloping terrain that utilizes drop boxes or earthen dams to affect total sequential flow from upper to lower wastewater infiltration trenches.

Sewage - Any liquid waste containing human, animal, vegetable, or chemical matter in suspension or solution from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains, or other water-using fixtures.

Site - The area or plot of land identified by a plat, deed, or other legal document specifying lot size and its boundaries that is submitted for evaluation by an applicant in an onsite wastewater system permit application.

~~SITE EVALUATION~~Site Evaluation - Evaluation of the soil, geology, zone of saturation, surface waters, topography, structures, and property lines of the proposed location of the onsite wastewater system. The evaluation can be conducted directly by certified Department personnel or the Department may conduct an evaluation through the review of information submitted by a Professional Soil Classifier licensed in ~~the State of~~ South Carolina.

Soils Report - A report prepared by a Professional Soil Classifier describing soil and site conditions for the purpose of designing an onsite wastewater system.

~~SOIL STRUCTURE~~Soil Structure - The aggregation of primary soil particles (i.e., sand, silt, and clay) into compound particles, or clusters of primary particles, which are separated from the adjoining aggregates by surfaces of weakness. In soils with platy structure, the aggregates are plate-like and overlap one another to severely impair permeability. A massive condition can occur in soils containing considerable amounts of clay when a portion of the colloidal material, including clay particles, tends to fill the pore spaces making the soil very dense.

~~SOIL TEXTURE~~Soil Texture - The relative proportions of the three soil separates (sand, silt, and clay) in a given sample of soil. The percentages of each separate are used to determine which class a particular sample falls into by plotting the intersection of these three values on the ~~United States~~ U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (~~USDA~~ NRCS) Textural Triangle.

~~SPECIALIZED ONSITE WASTEWATER SYSTEM DESIGN~~Standard 610 - Specialized Onsite Wastewater System Design (less than 1500 GPD gpd) - An onsite wastewater system that is certified to function satisfactorily and in accordance with all requirements of ~~R-61-56 this regulation~~ by virtue of it having been designed by a Registered Professional Engineer (PE) licensed in ~~the State of~~ South Carolina with technical input from a Professional Soil Classifier licensed in ~~the State of~~ South Carolina. Such systems have limited application, and can only be utilized when the required engineering design, certification, and technical soils documentation have been provided to and accepted by the Department.

~~STANDARDS~~Standard - A group of requirements developed by the Department that specifies the minimum site conditions and design criteria necessary for the approval of a specific type of onsite wastewater system, (i.e., ~~alternative system~~) that differs from a conventional system. A standard may also address minimum design criteria for certain components of onsite wastewater systems as well as methodologies for determining system sizing.

~~STICKINESS~~Stickiness - The capacity of soil to adhere to other objects. Stickiness is estimated in accordance with the Field Book at the moisture content that displays the greatest adherence when pressed between the thumb and forefinger.

Subdivision - means all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development, and includes all division of land involving a new street or a change in existing streets, and includes resubdivision. This definition shall apply whether the lots are to be sold, rented, or leased. This definition shall not apply when the division or partition of the land, or the conveyance of property is pursuant to a will, an intestacy statute, or an order by a probate judge.

~~SUBSURFACE WASTEWATER INFILTRATION AREA (DRAIN FIELD)~~Subsurface Wastewater Infiltration Area (Drain Field) - A specific area where a network of wastewater infiltration trenches or other devices of sewage application are installed to provide the final treatment and disposal of effluent.

Suspension - The temporary or indefinite withdrawal or cessation of rights and privileges granted by a license or onsite wastewater system permit or approval, as applicable.

Third-Party - A qualified person or entity, as determined by the Department, that is independent of the parties involved.

~~ULTIMATE TENSILE STRENGTH~~Ultimate Tensile Strength - A measure of the resistance of a material to longitudinal stress, measured by the minimum longitudinal stress required to rupture the material.

~~UPGRADE/EXPANSION~~Upgrade/Expansion - Any work performed on an existing onsite wastewater system for the purposes of increasing the capacity of the system above its original design and/or accommodating wastes of a different character than was originally approved.

Wastewater Characteristics - The physical, chemical, and biological parameters and characteristics of domestic wastewater. Physical characteristics include turbidity, color, odor, total suspended solids (TSS), temperature and fats, oils and grease (FOG). Chemical characteristics include the presence and extent of chemical oxygen demand (COD), total organic carbon (TOC), Total Kjeldahl Nitrogen (TKN), nitrogen, phosphorous, chlorides, sulfates, alkalinity, pH, heavy metals, trace elements, and priority pollutants identified by the U.S. Environmental Protection Agency (EPA). Biological characteristics include biological oxygen demand (BOD), oxygen required for nitrification and microbial population. High



strength wastewater is characterized as meeting one (1) or more of the following levels: BOD > 350 mg/l, TSS > 100 mg/l, TKN > 100 mg/l, FOG > 30 mg/l.

Wastewater Combustion System - A self-contained system for wastewater treatment that uses water as a medium for transport and storage. It treats and renders wastewater inert using maceration and incineration.

~~WASTEWATER INFILTRATION TRENCH~~Wastewater Infiltration Trench - A trench installed in the naturally occurring soil that is utilized for the treatment and disposal of domestic wastewater. ~~A conventional trench is characterized by the following: (a) at least twenty three (23) inches in depth; (b) thirty six (36) inches in width; (c) filled with aggregate so that at least six (6) inches is beneath the distribution pipe, with at least five (5) inches on both sides of the pipe, and at least three (3) inches covering the pipe; and (d) at least nine (9) inches of backfill. Other trench configurations are specified in the attached Appendices of Standards for Onsite Wastewater Systems.~~

~~WASTEWATER TREATMENT FACILITY~~Wastewater Treatment Facility - An accessible publicly or privately owned system of structures, equipment, and related appurtenances ~~to~~ that treat, store, or manage wastewater.

~~ZONE OF SATURATION~~Zone of Saturation - Any zone in the soil profile that has soil water pressures that are zero or positive at some ~~times-time~~ during the year. For the purpose of this regulation, the beginning of such a zone shall be utilized in determining all required vertical separations from the deepest point of effluent application. This zone, ~~therefore~~, shall be defined as the shallowest of those points at which either redox depletions of value four (4) or more and chroma two (2) or less appear or gleying is first observed; or, in the absence of other field identification methods, the maximum groundwater elevation as determined by wet season monitoring performed in accordance with criteria approved by the Department.

## B. REFERENCES 101.2. References.

(1) The following statutes referenced in this Regulation are those in force on the effective date of this Regulation:

- (a) 1976 S.C. Code of Laws, Section 44-1-140(11), South Carolina Department of Health and Environmental Control (1976 Code as amended)
- (b) 1976 S.C. Code of Laws, Section 1-23-10 et seq., South Carolina Administrative Procedures Act (1976 Code as amended)
- (c) 1976 S.C. Code of Laws, Section 48-1-10 et seq., South Carolina Pollution Control Act (1976 S.C. Code as amended)
- (d) 1976 S.C. Code of Laws, Section 48-39-10 et seq., South Carolina Coastal Tidelands and Wetlands (1976 S.C. Code as amended)
- (e) Section 208, Federal Clean Water Act, 33 U.S.C. Section 1288
- (f) 1976 S.C. Code of Laws, Section 48-39-280 et seq., South Carolina Coastal Tidelands and Wetlands (1976 Code as amended)
- (g) 1976 S.C. Code of Laws, Section 44-55-1410 et seq., Water and Sewer Facilities in Counties (1976 S.C. Code as amended)
- (h) 1976 S.C. Code of Laws, Section 5-31-2010 et seq., Additional Powers of Municipalities as to Sewage Collection and Disposal (1976 S.C. Code as amended)

(2) The following Departmental Regulations referenced in this Regulation are those in force on the effective date of this Regulation:

- (a) Regulation 61-25, Retail Food Establishments

- ~~— (b) Regulation 30-1, Coastal Division Regulations~~
- ~~— (c) Regulation 61-9, Water Pollution Control Permits~~
- ~~— (d) Regulation 61-58, State Primary Drinking Water Regulations~~
- ~~— (e) Regulation 61-67, Standards for Wastewater Facility Construction~~
- ~~— (f) Regulation 61-68, Water Classification and Standards~~
- ~~— (g) Regulation 61-69, Classified Waters~~

~~— (3) The following manufacturing and procedural standards referenced in this Regulation regulation are those in force on the effective date of this Regulation revision:~~

- ~~— (a1) American Society of Agronomy (ASA)~~
- ~~— (b2) American Society for Testing and Materials (ASTM) C~~
- ~~— (c3) American Society for Testing and Materials (ASTM) D~~
- ~~— (d4) Canadian Standard Association (CSA)~~
- ~~— (e5) Crop Science Society of America (CSSA)~~
- ~~— (f6) International Association of Plumbing and Mechanical Officials (IAPMO)~~
- ~~— (g7) National Building Specification (NBS) Voluntary Product Standard PS 15-69~~
- ~~— (h8) National Electrical Manufacturers Association (NEMA)~~
- ~~— (i9) Soil Science Society of America (SSSA)~~

## **102. Onsite Wastewater System Site Evaluation and Fees.**

### 102.1. Site Evaluations.

(1) An applicant for a permit to construct an onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system shall, at the time an application for a permit to construct is submitted to the Department, pay to the Department the site evaluation fee set forth in Section 102.2.

(2) Soil evaluations shall be conducted only by a licensed Professional Soil Classifier or a certified Department staff member.

(3) Except as provided in Section 102.1(4) and 102.1(5), an onsite wastewater system layout in accordance with Section 400, Appendices of Standards for Permitted Systems, may be prepared by:

- (a) A certified Department staff member;
- (b) A Registered Professional Engineer licensed in South Carolina; or
- (c) The same licensed Professional Soil Classifier who conducted the soil evaluation for the site.

(4) Only a Registered Professional Engineer may design a system and prepare a system layout for Standard 610/611 – Specialized Onsite Wastewater Systems, Standard 150 – Large and Community Onsite Wastewater Systems, nonwater-carried sewage treatment systems, wastewater combustion systems, and gray water subsurface reuse systems.

(5) The Department will not perform a soil evaluation or prepare a system layout for any subdivision or portion of a subdivision. Soil evaluations for any lots that are part of a subdivision must be conducted by a Professional Soil Classifier. Proposed system layouts for any lots that are part of a subdivision must be prepared by a third-party Registered Professional Engineer or Professional Soil Classifier meeting the criteria under Section 102.1(3)(c). The Soils Report and proposed system layout must be submitted with

the onsite wastewater system permit application for the purpose of the Department review and issuance of a permit to construct.

#### 102.2. Fees.

The Department shall charge a fee of one hundred and fifty dollars (\$150.00) to evaluate the site of a proposed onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system.

#### 102.3. Other.

Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with the Department's Bureau of Environmental Health Services programs.

### **102. General****103. Onsite Wastewater Systems.**

#### 103.1. General.

~~102.1(1)~~ Each dwelling-unit, building, business, or other structure occupied for more than two (2) hours per day shall be provided with an approved method for the treatment and disposal of domestic wastewater.

~~102.2(2)~~ It shall be the responsibility of the property owner to ensure that a permit to construct and operate any new, upgraded, or expanded onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system is obtained from the Department prior to construction and operation of the system.

~~102.3(3)~~ No person shall begin construction of a ~~building-dwelling, business, or other structure~~ to be served by an onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system until a permit to construct and operate such a system is issued by the Department. –Mobile or modular structures intended for occupancy shall not be moved onto the site until the permit to construct and operate an onsite wastewater system has been issued.

~~102.4(4)~~ The ~~permit holder~~ property owner shall be required to properly operate and maintain in good working order all onsite wastewater system(s) and their parts, and operate as efficiently as possible, all facilities and systems which are installed pursuant to the permit and to comply with all terms and conditions of ~~the~~ a previously issued permit. System parts may include, but are not limited to, sealed watertight tanks, lid(s), piping, aggregate, pump, and pump components.

~~102.5(5)~~ An onsite wastewater system serving more than one (1) piece of deeded property shall be considered as a community or cluster collection and treatment system and shall comply with the following:

(1)(a) A permit activity will not occur that is inconsistent with a plan or plan amendment approved under section 208(b) of the Clean Water Act unless the Department finds such variance necessary to protect the public's health, safety, and welfare.

(2)(b) ~~A~~ If a public entity shall-owns the system-and, the entity shall be responsible for the operation, maintenance, and replacement of all components unless otherwise approved by the Department. The Department may consider a request from a private entity or person; however, such proposals must be evaluated on a case-by-case basis. The Department will evaluate the capability of long-term, reliable system operation in its evaluation of a permit request.

~~(3)~~(c) If the project is owned by a private entity or person, the Department shall require financial assurances for the operation, maintenance, and replacement of the tank(s) and subsurface wastewater infiltration area system and relevant collection/pumping components.

(4)(d) Sufficient area meeting the minimum requirements for large onsite wastewater systems shall be provided for at least one hundred (100) percent repair or replacement of the primary subsurface wastewater infiltration area.

~~(5)~~(e) The collection sewer and pumping portions of a community onsite wastewater system shall receive a separate Construction Permit under ~~R. 61-67.300~~R.61-67.300, Standards for Wastewater Facility Construction.

~~102.6~~ When the actual or estimated peak sewage flow will exceed fifteen hundred (1500) gallons per day, the Department may require that the design of the onsite wastewater system be prepared by a Registered Professional Engineer licensed in the State of South Carolina. A Registered Professional Engineer licensed in the State of South Carolina may also design all onsite wastewater systems where the sewage flow will be less than fifteen hundred (1500) gallons per day. These designs shall include the Soils Report conducted by certified Department personnel or submitted by a Professional Soil Classifier licensed in the State of South Carolina and shall satisfy requirements of Regulation ~~61-56, Section 415, Appendix O~~ System Standard ~~610~~ Specialized Onsite System Designs.

~~102.7~~103.2. Large (greater than 1500 gpd) and community onsite wastewater systems incorporating advanced treatment methods, including but not limited to aerobic pre-treatment, lagoons, surface or subsurface drip irrigation, low pressure pipe distribution and other maintenance intensive methods, shall be required to obtain a Land Application Permit under ~~R. 61-9.505~~R.61-9, Water Pollution Control Permits.

~~102.8~~103.3. Facilities that generate industrial process or any other non-domestic wastewater shall not be granted a permit under this regulation unless the Department determines that the proposed discharge would not pose a significant environmental risk.- In such a determination, the ~~Bureau of Water Department~~ would assess the risk to public health and/or groundwater contamination determine if the waste may cause a violation of any drinking water standard under R.61-58, State Primary Drinking Water Regulations, or may otherwise adversely affect the health of persons regardless of whether or not the wastewater ~~were~~ is to be discharged continuously or intermittently to the onsite wastewater system.- Plumbing appurtenances that facilitate the transport of such wastewater, including floor drains, trench drains, utility sinks, equipment drains, or any other conduit shall not be installed in facilities served by onsite wastewater systems unless specifically approved by the Department as a result of the above-described determination.

~~102.9~~103.4. Campgrounds.

(1) Onsite wastewater systems serving campgrounds shall comply with all applicable requirements of this regulation. -Such campgrounds shall be provided with adequate toilet and bathing facilities, except in those cases where all campsites are furnished with individual sewer service connections, and each site is exclusively designated for use by camping units equipped to access such connections.

(2) Individual sewer service connections shall be part of an approved sewage collection system and shall be equipped with removable, tight fitting covers.

(3) Where individual sewer service connections are not furnished at all campsites, an approved sanitary dump station(s) shall be provided at a convenient location(s) within the campground at the ratio of one (1) dump station per one hundred (100) ~~unsewered~~ campsites or fractions thereof.

(a) A dump station shall consist of one (1) or more trapped four (4) inch sewer risers surrounded by a concrete apron having a diameter of at least two (2) feet and sloped to drain. -Sewer risers must be equipped with removable, tight fitting covers.

(b) Each dump station shall be equipped with pressurized water to be used for washing the concrete apron. -The water outlet shall be protected from back siphonage by a vacuum breaker installed at its highest point, or by other approved means. -A sign shall be placed at this water outlet stating: -THIS WATER IS FOR CLEANING PURPOSES ONLY.

~~103. APPLICATION, PERMIT, APPROVAL~~ **104. Application, Permit, Final Inspection, and Approval.**

~~103.1~~ **104.1. Application.**

(1) The applicant shall furnish, ~~on the application form provided in a format as identified by the Department, correct~~ complete and accurate information necessary for determining the feasibility of an onsite wastewater system.

(2) The application shall include written permission from the property owner or their legal representative, using a form identified by the Department, for Department representatives to access the property.

(3) A boundary plat, deed, or other legal document specifying the lot size and its boundaries shall be furnished by the applicant. The applicant shall provide a legal description that specifies lot boundary lengths for lots two (2) acres or smaller in size and upon request for any lot greater than two (2) acres in size. -When a dwelling or facility is to be served by a remote subsurface wastewater infiltration area, the applicant must provide appropriate easement(s). -An appropriate easement must allow ingress and egress for construction, operation, maintenance, replacement and repair and must run with the land.

(4) Soil boring descriptions, backhoe pits, and soils classifications from specifically identified locations, including other tests or information, shall be required when deemed necessary by the Department.

(5) Backhoe pits shall be required above the Fall Line that separates the Piedmont area from the Coastal Plain as defined by the South Carolina Geological Survey.

(6) Before a site evaluation of the lot is performed by the Department, the applicant may shall be required to: -clear and mark pertinent property boundary lines and corners; post an identification marker in the front center of the lot; place stakes at the corners of the proposed building; mark the proposed point of stub-out and septic tank as well as proposed drain field area; locate the proposed or existing well location; and identify the proposed location of any additional structures or facilities on the property that may influence the placement and configuration of the onsite wastewater system. A site sketch shall be included on the application or as a separate attachment that reflects the items above and any other items specified on the application. ~~Also, the~~ The applicant may be required to clear underbrush from the property in order to facilitate the evaluation.

(7) The Department will not issue a permit if it determines that site conditions are unsuitable for the system layout or permit requested, or if issuance of the permit would otherwise be inconsistent with the requirements of this regulation. The Department also reserves the right to modify a proposed system layout submitted by a Professional Soil Classifier under Section 102.1(3)(c) when deemed appropriate.

~~103.2~~ **104.2. Permit.**

(1) It shall be unlawful to construct, upgrade, expand, or operate an onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system unless the Department has issued a permit to construct and approval to operate for the specific construction and operation proposed. The system shall be constructed and operated in accordance with the permit, and the Department must authorize any changes prior to the construction and operation of the system. -The applicant shall be required to make a written request or submit a new application if the for any desired permit modifications require another site evaluation. The applicant shall submit a new application with a new site evaluation fee for permit modifications that require an additional site evaluation. The Department may also require a permit to construct and approval to operate for the repair, relocation, or replacement of an onsite wastewater system or its components when deemed necessary, irrespective of whether any change in use impacting the existing onsite wastewater system would occur. The property owner or their legal representative shall notify the Department before relocating or replacing an onsite wastewater system or its components so that the Department may determine whether a permit will be required.

(2) The onsite wastewater permitted system shall be constructed and operated according to the specifications and conditions of the permit, and in compliance with this regulation.

~~(3) In the case of repairs to existing onsite wastewater systems, the Department may authorize the best possible method of repair that, in the opinion of Department staff, may improve the operation of the system, regardless of site conditions.~~

~~(4)~~(3) Permits issued after the effective date of this regulation shall remain valid for a period of five (5) years from the date of issuance, provided the physical character of the property has not changed and the conditions of the original permit can be met. -Exceptions may be granted for those permits addressed by other statutes.

#### ~~103.3 Approval~~

~~—(1) Any repair, extension or alteration for which a permit has been issued and all newly constructed onsite wastewater systems may be inspected in accordance with S.C. Code Section 44-55-825.—~~

~~—(2) The licensed system contractor shall also sign a statement that the onsite wastewater system was installed as specified in the Department issued permit.~~

#### 104.3. Final Inspections and Approval.

(1) Except in the case of systems designed by a Registered Professional Engineer, all installers shall arrange with the Department in advance a time for a final inspection of an onsite wastewater system that is being installed. It shall be considered a violation of this regulation to cover a system that has not been subject to final Department inspection or installer self-inspection in accordance with this regulation.

(2) Final inspections of onsite wastewater systems to determine compliance with a Department-issued permit to construct shall be conducted by certified Department staff except as follows:

(a) Registered Professional Engineers licensed in South Carolina must conduct final inspections on all systems they design.

(b) Except as provided in 104.3(2)(a), Tier 3 installers may self-inspect systems they install. Tier 3 installers shall comply with Section 702.2 in its entirety.

(c) Except as provided in Section 104.3(2)(a), the Department may, in its discretion, direct Tier 1 and Tier 2 installers with no pending enforcement actions or prior Department findings of violation under Section 800 of this regulation to self-inspect systems they have installed using a process and form directed by the Department. Tier 1 and Tier 2 installers allowed to conduct self-inspections shall comply with Section 702.2 in its entirety. The Department reserves the right to withdraw any direction to Tier 1 and Tier 2 installers to conduct self-inspections at any time.

(3) Documentation of system installations, including certified as-built plans where required, shall be submitted in a Department-approved format within two (2) business days of completing the system installation or within two (2) business days of the installer self-inspection, where applicable.

(4) The licensed system installer shall also sign a statement certifying that the onsite wastewater system was installed as specified in the Department issued permit.

(5) Following final inspection and upon review of all required documentation, the Department will issue an approval to operate for a system installed in compliance with the issued permit to construct and all applicable requirements of this regulation. The Department will not issue an approval to operate if it determines that the system installation is inconsistent with the issued permit to construct or inconsistent with any requirement of this regulation.

#### ~~200. MINIMUM SITE CONDITIONS~~ **200. Minimum Site Conditions for Onsite Wastewater Systems.**

200.1. Soil texture, depth of soil to restrictive horizons, and depth to the zone of saturation shall meet minimum standards approved by the Department. These characteristics shall be determined using accepted methodologies in the field of soil science.

200.2. Soils exhibiting massive or platy structure, and soils which have been identified as having substantial amounts of expansible layer clay minerals or smectites, are unsuitable for onsite wastewater systems.

200.3. Where the estimated peak sewage flow will not exceed fifteen hundred (1500) gpd, the minimum vertical separation between the deepest point of effluent application and the zone of saturation shall be at least six (6) inches.

200.4. Where the estimated peak sewage flow will exceed fifteen hundred (1500) gpd, the depth to the zone of saturation shall be at least thirty-six (36) inches below the naturally occurring soil surface, and at least six (6) inches below the deepest point of effluent application.

200.5. Depth to rock and other restrictive horizons shall be greater than twelve (12) inches below the deepest point of effluent application.

#### 200.6. Setbacks.

(1) The area of the lot or plot of ground where the onsite wastewater system is to be installed shall be of sufficient size so that no part of the system, excluding solid pipes, will be:

~~(4)~~ (a) Within five (5) linear feet of a building, or under a driveway or parking area;

~~(2)~~ (b) Within seventy-five (75) linear feet of a private well (~~less than 1500 gpd sewage flow~~), one hundred (100) linear feet of a receptor (~~greater than 1500 gpd sewage flow~~), and within the Department's established minimum distance from a public well;

~~(3)~~ (c) ~~With in~~ Within one hundred (100) linear feet of a public well;

~~(4)~~ (d) Within seventy-five (75) linear feet of the delineated critical area line (tidal waters of coastal waters and tidelands critical areas) as determined by the Department's coastal division; or within seventy-five (75) linear feet of the mean high water (within the banks) elevation (~~non-tidal~~ nontidal waters, beach/dune systems and beach-critical areas) of an impounded or natural body of water, including streams, ~~and canals, and retention ponds~~;

~~(5)~~ (e) Within ten (10) feet of upslope and twenty-five (25) feet of down-slope curtain drains;

~~(6)~~ (f) Within twenty-five (25) feet of a drainage ditch or stormwater treatment system including any detention ponds (determined by maximum water elevation);

(g) Within fifteen (15) feet of piped drainage ditches;

(h) Within fifteen (15) feet of an inground pool;

(i) Within twenty-five (25) feet upslope of a basement or within fifteen (15) feet of the sides of a basement. These setbacks do not apply to a septic tank/pump chamber location or where trench installations are downslope of a basement;

~~(7)~~ (j) Within fifteen (15) feet of the top of the slope of embankments or cuts of two (2) feet or more vertical height when any part of the wastewater infiltration trench is to be placed higher in elevation than the invert of the cut or embankment;

~~(8)~~ (k) Within five (5) feet of a property line.

~~(9)~~ (2) Greater protective offsets shall be required when utilizing certain ~~alternative~~ system standards contained within this ~~Regulation~~ regulation.

(3) Prior to permitting the onsite wastewater system, jurisdictional determination of any affected wetlands may be required. Should any part of the proposed onsite wastewater system be located in wetlands, approval from the appropriate permitting agency(s) (e.g., U.S. Army Corps of Engineers, SCDHEC Ocean and Coastal Resource Management, etc.) shall be received, and proof of such provided to the Department.

200.7. In addition to the minimum space required in Section 200.6, minimum repair area shall be set aside as follows:

(1) Any new site meeting the minimum design criteria for an onsite wastewater system shall have a usable repair or replacement area equivalent to at least fifty (50) percent of the size of the original system. Where community onsite wastewater systems are utilized, there must be at least one hundred (100) percent repair or replacement area. ~~This area cannot be covered with structures or impervious materials.~~

(2) Usable repair or replacement area shall be demonstrated to include suitable soil conditions, and shall be free of impervious materials, buildings, or other improvements, setbacks, easements, and other encroachments that would prevent system construction.— The undisturbed area between the wastewater infiltration trenches shall not be credited towards this requirement.



200.8. Multiple, individually owned remote subsurface wastewater infiltration areas may be considered for mass installation in a defined area where the wastewater infiltration trenches will be adjacently located to each other, provided that the combined peak wastewater loading is less than fifteen hundred (1500) gpd. -In such cases, each subsurface wastewater infiltration area plot shall be sized such that there is sufficient area for one hundred (100) percent subsurface wastewater infiltration area replacement. -Each plot shall be deeded, with all appropriate easements, as a lot in conjunction with the specific unit that it serves, and required protective offsets, as described in Section 200.6, shall apply to each individual remote subsurface wastewater infiltration area. -A plan shall be prepared by a Registered Professional Engineer licensed in ~~the State of~~ South Carolina that illustrates the overall plan; specifies the route and identification of effluent sewers and/or force mains; specifies the entity responsible for perpetual maintenance of the sewer lines and mass subsurface wastewater infiltration area; specifies the configuration and identification of the individual subsurface wastewater infiltration area parcels; and specifies the manner in which ingress and egress will be provided to the individual subsurface wastewater infiltration area parcels. When the combined peak wastewater loading of the adjacently loading subsurface wastewater infiltration area will exceed fifteen hundred (1500) gpd, the project shall be considered as a public (community) collection and treatment system, ~~then and~~ the onsite wastewater system must comply with the requirements in Section ~~402.5~~ 103.1(5).

~~201. MINIMUM REQUIREMENTS FOR PRIMARY TREATMENT~~ **201. Minimum Requirements for Onsite Wastewater System Primary Treatment.**

201.1. Septic Tanks.

(1) All persons or firms manufacturing septic tanks for use in South Carolina shall submit detailed plans for each size tank to the Department; and shall receive written approval for such tanks prior to their installation in the state.

(2) The design and construction of each septic tank shall be in accordance with minimum standards contained within this ~~Regulation~~ regulation.

(3) No septic tank shall be installed which has a net liquid capacity of less than one thousand (1000) gallons. -Such tanks shall be sufficient to serve dwellings of four (4) bedrooms or less. -Two hundred fifty (250) gallons additional capacity shall be required for each bedroom over four (4).

(4) When multiple dwellings, ~~including condominiums, apartments, and mobile homes,~~ share a common onsite wastewater system, each dwelling unit shall either have its own properly sized septic tank; or it must discharge to a larger tank(s) that provides the combined total of the minimum septic tank capacities required for each contributing unit. -Exception may be granted when a public entity, or private entity with financial assurances, is approved by the Department to provide operation and maintenance of the system. -In such cases, the formula in Section 201.1(5) may be considered.

(5) Septic tanks serving establishments other than individual dwellings shall be sized according to actual peak flow data, when available, or by estimates of peak sewage flow, as set forth in standards established by the Department. For those septic tanks receiving peak flows less than fifteen hundred (1500) gpd, the net liquid capacity shall be calculated by multiplying 1.5 times the peak flow expressed in ~~gallons per day~~ (gpd). -For those septic tanks receiving peak flows between fifteen hundred (1500) and forty-five hundred (4500) gpd, the net liquid capacity shall be calculated as follows:

$$\text{Volume (V)} = 1125 \text{ gal. plus } (0.75 \times \text{Peak Flow(gpd)}).$$

For those septic tanks receiving peak flows in excess of forty-five hundred (4500) gpd, the net liquid capacity shall be at least equal to the peak flow:

$$\text{Volume (V)} = \text{Peak Flow (gpd)}$$

(6) The minimum liquid capacity requirements shall be met by the use of a single septic tank or two (2) or more tanks installed in series. -Septic tanks joined in series shall be interconnected by an upper effluent pipe(s) with a minimum diameter of four (4) inches and a lower sludge pipe(s) with a minimum diameter of twelve (12) inches. -The upper connection(s) shall be installed level from tank to tank, and the lower sludge pipe connection(s) shall be installed level and shall be placed twelve (12) inches above the bottoms of the tanks. -The lower sludge pipe connection(s) can be eliminated if the first tank in series contains at least two-thirds (2/3) of the total required liquid capacity. There shall be no more than two (2) inches of fall from the inlet invert of the first tank to the outlet invert of the last tank in series.

#### 201.2. Grease Traps.

(1) Any new food service facilities permitted under ~~R. 61-25~~ R.61-25, Retail Food Establishments, and served by an onsite wastewater system that is permitted after the effective date of this regulation shall be required to have a properly sized grease trap. -This requirement ~~shall~~ may also apply to new facilities not requiring a food service permit under ~~R. 61-25~~ R.61-25, where cooking operations are performed. Exception may be granted in cases where a permitted retail food service establishment performs limited food preparation and/or cooking. ~~is permitted but does not perform any cooking or food preparation operations.~~

(2) ~~Existing food service establishments permitted under R. 61-25 prior to the effective date of this regulation shall not be required to immediately comply with this section, provided the facility does not experience an onsite wastewater system malfunction. Those existing establishments that experience a future malfunction as a result of problems associated with the accumulation of grease shall be required to comply with all portions of this section. Also, food service facilities that were permitted prior to the effective date of this regulation, were closed, and then reopened at any time thereafter, provided the facility was not experiencing a malfunction prior to closure and the original peak design flow will not be exceeded, shall not be required to immediately comply with this section provided the facility does not experience an onsite wastewater system malfunction. Any existing food service establishment that does not have a grease trap, but experiences an onsite wastewater malfunction as a result of grease accumulation, shall be required to immediately comply with all portions of Section 201 as if it were a new food service facility.~~

(3) Any food service facility requiring a grease trap shall provide two (2) separate plumbing stub-outs, one serving the food preparation area and the other serving the restrooms. -The stub-out from the restrooms shall discharge directly into the main building septic tank. -The stub-out from the food preparation area shall discharge directly into the grease trap with the effluent then directed to the main building septic tank. In order to enhance grease separation while the liquids are hot, the grease trap shall be placed as close as possible to the source of wastewater. -Garbage grinders shall not be allowed to discharge to such systems.

(4) All grease traps must be directly accessible from the surface, and must be equipped with an extended outlet sanitary tee terminating six (6) to twelve (12) inches above the tank bottom. -The minimum access opening shall be eighteen (18) inches in diameter.

(5) All grease traps serving facilities from which the peak sewage flow exceeds fifteen hundred (1500) gpd shall either be dual chambered or individual tanks in series. -If dual chambered, both the dividing wall and the second chamber must be equipped with a sanitary tee terminating six (6) to twelve (12) inches above the tank bottom.

(6) It shall be the responsibility of the owner/manager to ensure that the grease trap(s) is cleaned by a licensed septage pumper at frequent intervals to prevent the carryover of grease into other parts of the onsite wastewater system.

(7) Determination of Minimum Net Liquid Capacity

(a) No grease trap used as part of an onsite wastewater system shall have a net liquid capacity of less than one thousand (1000) gallons. ~~Also, commercial~~ Commercial interior-type grease interceptors shall not be utilized in lieu of a properly sized exterior grease trap.

(b) Minimum net liquid capacities of grease traps shall be determined as follows:

NLC = GPD x LF x RF, where

NLC = Net Liquid Capacity of Grease Trap (gallons)

GPD = Total Maximum Estimated Sewage Flow (gpd)

LF = Loading Factor (the approximate portion of the total maximum daily flow generated in food preparation areas)

0.3 - Schools and Other Institutions

0.4 - Restaurants

0.5 - Retail Food Stores

RF = Minimum Retention and Storage Factor of 2.5 for Onsite Wastewater Systems

201.3. Other Primary Treatment Methods.

The Department, at its discretion, may consider other methods of primary treatment requested by a Registered Professional Engineer where conditions are warranted.

~~202. MINIMUM REQUIREMENTS FOR FINAL TREATMENT AND DISPOSAL SYSTEMS~~ **202. Minimum Requirements for Onsite Wastewater System Final Treatment and Disposal Systems.**

~~202.1 General~~

(1) All pipe utilized in onsite wastewater systems shall meet applicable ASTM standards. All piping utilized in the connection of a septic tank to a subsurface wastewater infiltration area, including that which is utilized in the connection of adjacent wastewater infiltration trenches, whether they be level or serially fed, shall be non-perforated Schedule 40 PVC pipe. -Such pipe, excluding force mains, shall be a minimum of three (3) inches in diameter. -The connecting pipe shall not be surrounded by aggregate.

(2) At least seven (7) feet of undisturbed earth shall exist between wastewater infiltration trenches.

(3) The aggregate used in onsite wastewater systems shall be a material approved by the Department, and shall range in size from one-half (1/2) inch to two and one-half (2 1/2) inches. Fines shall be prohibited. Tire chips shall range in size from one-half (1/2) inch to four (4) inches in size, and wire strands shall not protrude more than one-half (1/2) inch from the sides.

(4) Drop boxes shall be utilized when deemed necessary by the Department. When required, they shall be surrounded and stabilized by at least two (2) feet of undisturbed or manually compacted earth, and the wastewater infiltration trenches shall be fed with non-perforated Schedule 40 PVC pipe. The invert of the drop box overflow pipe shall be at the same elevation as the top of the aggregate in the trenches fed by that

box, and the top of the aggregate shall be level throughout the trench run. -Other methods that affect serial distribution shall also overflow at the same elevation as the top of the aggregate.

(5) There shall be at least two (2) feet of earthen buffer between the septic tank and all portions of adjacent wastewater infiltration trenches. -Where gravity flow is utilized, the invert elevation of the septic tank outlet shall be at the same elevation or higher than the top of the aggregate in the highest placed wastewater infiltration trench.

(6) To ensure proper operation and protection of onsite wastewater systems, the Department may require individual or combined installation of drainage swales, curtain or interceptor drains, protective barriers, or protective ground cover. Final approval of the permit may be withheld until such time as these improvements are completed.

(7) The bottom of each wastewater infiltration trench, including the distribution pipe contained within, shall be as level as possible, with an elevation differential not to exceed two (2) inches throughout the trench run.

(8) The required number, length, and configuration of wastewater infiltration trenches shall be determined by the Department, and shall be based upon the Standard for Determining Peak Sewage Flow Rates (~~Appendix R~~) (Section 501, Peak Sewage Flow Rate Standard) from Commercial and Recreational Establishments in conjunction with the Long-Term Acceptance Rate Standard for Onsite Wastewater Systems (~~Appendix Q~~) (Section 500, Long-Term Acceptance Rate Standard for Onsite Wastewater Systems). -All systems shall be sized based upon the most hydraulically limiting, naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

(9) The aggregate over the distribution pipe shall be covered with a strong, untreated pervious material to prevent infiltration of backfill material.

### ~~203. CONSTRUCTION CRITERIA~~ **203. Onsite Wastewater System Construction Criteria.**

203.1. On sloping terrain, wastewater infiltration trenches shall be installed perpendicular to the direction of slope and parallel to the contours of the land.

203.2. Where deemed necessary by the Department, all required site alterations (swales, fill, shaping, etc.) shall be done prior to permitting the installation of the onsite wastewater system.

203.3. The area in which the onsite wastewater system is to be located shall be protected from surface water and roof or downspout drainage by the installation of drainage swales and small amounts of fill to achieve positive surface drainage.

203.4. Gross amounts of dirt, mud, and debris shall be removed from the septic tank before backfilling. All backfilling around the tank shall be tamped to facilitate stabilization.

203.5. If septic tank lids are of multi-part, slab-type construction, all joints shall be caulked or covered with heavy roofing paper or similar material.

203.6. All septic tanks of two-piece construction joined by tongue and groove shall be sealed with either bituminous mastic or other watertight caulking material placed in the groove in such quantity that the sealant is clearly visible around the entire tank after the two (2) pieces are joined.

203.7. When effluent pumping is required, all components of the pumping system shall adhere to standards contained within this ~~Regulation~~ regulation.

203.8. The Department may restrict, delay, or prohibit the installation or final approval of any onsite wastewater system when adverse soil or site conditions exist. —These may include, but not be limited to, wet soil conditions in textural ~~classes~~ Class III and Class IV as described in the Long-Term Acceptance Rate Standard for Onsite Wastewater Systems approved by the Department.

~~204. EVALUATION OF ALTERNATIVE INFILTRATION TRENCH PRODUCTS~~ **204. Evaluation of Alternative Infiltration Trench Products.**

The Department shall be responsible for the evaluation and approval of alternative infiltration trench products prior to their use in the ~~S~~ state, unless otherwise regulated by statute. -This evaluation shall include a review of available research data; a review of parameters relating to structure, geometry, and volume; and the establishment of required equivalency values for comparing the product to a conventional wastewater infiltration trench.

204.1. Application.

(1) All requests for approval of alternative infiltration trench products must be submitted in writing to the Department, and must include the following:

- (a) Complete description of the product and its intended use.
- (b) Complete listing of materials used in the construction of the product, including specifications.
- (c) Copies of all available literature pertaining to the product, and a listing of all appropriate reference materials.
- (d) Copies of any and all available research, testing, and monitoring data, to include records of performance and/or prior experience in actual field conditions.

(2) The Department will review the application, and may seek other information, including additional evaluations.

204.2. Equivalency Value ~~For~~ for Infiltrative Surface.

(1) The total infiltrative surface area surrounding the sides and bottom of a conventional wastewater infiltration trench (i.e., 5.33 sq.ft./lin.ft.) shall serve as the basis for all geometric comparisons to alternative infiltration trench products.

(2) The effective infiltrative surface area of a conventional trench shall include the total of both rectangular sidewalls, beginning at the top of the aggregate and extending to the trench bottom, in addition to the width of the trench bottom. -Similarly, the effective infiltrative surface area of a product shall include the total of both immediately adjacent, rectangular sidewalls, beginning at the top of louvers, slits, holes or similar orifices, in addition to the rectangular width of the trench immediately beneath the product.

(3) The equivalency value (E) for any given product is determined by comparing the total effective surface area of the product, as defined above, with that of a conventional wastewater infiltration trench as follows:

(a) Total Infiltrative Surface Area for One (1) Foot of Conventional Trench:

Trench Sidewalls =  $2 \times (1.16\text{ft.H} \div 1.0\text{ft.L})(1.16\text{ft.H} \times 1.0\text{ft.L}) = 2.33\text{ sq.ft./lin.ft.}$

Trench Bottom =  $1 \times (3\text{ft.W} \times 1\text{ft.L}) = 3.0\text{ sq.ft./lin.ft.}$

Total Infiltrative Surface Area = 5.33 sq.ft./lin.ft.

(b) Equivalency Value (E) Shall Be Computed As Follows:

$E = 5.33\text{ sq.ft./ft} \div \text{Sum of Three Rectangular Interfaces Immediately Adjacent to Product (sq.ft./ft.)}$

(c) The Required Total Length of the Product Shall Be Calculated As Follows:

Length of Product (L) = E x Length of Conventional 36 in. Wide Trenches Required ~~By~~by DHEC Regulations and Standards

204.3. Other parameters to be evaluated for alternative infiltration trench products may include the following:

(1) Structural Integrity - Products must be of sound construction and able to adequately withstand the normal pressures and ~~stressed~~stresses associated with installation and use.

(2) Inertness - No product can be approved unless it will remain relatively unaffected for extended periods of time while in contact with typical domestic wastewater.

(3) Storage Volume - The effluent storage capacity of a product must closely approximate or exceed that of a comparable conventional system.

(4) Maintenance of Permeable Interfaces - A product shall have a direct interface with the effective infiltrative surface (undisturbed natural soil) or, if backfill is required, backfill material shall not create a permeability barrier and shall not hinder the downward or horizontal flow of effluent into the undisturbed natural soil.

(5) The unique characteristics of a given product may warrant the evaluation of other parameters not specifically mentioned in this section of the regulation.

(6) The design, construction, or installation methods used with any product shall not conflict nor violate any other requirements established by the Department.

204.4. Approval ~~For~~for General Use.

If warranted, the Department will issue a letter of approval for general use of the alternative infiltration trench product in accordance with equivalency values and other requirements determined herein. At least nine (9) inches of ~~backfill~~soil cover is required ~~unless a lesser amount is approved by the Department.~~

### ~~300. WASTEWATER TREATMENT FACILITY ACCESSIBILITY~~300. Wastewater Treatment Facility Accessibility.

300.1. Permits for new onsite wastewater systems shall not be issued where a wastewater treatment facility is accessible for connection.

300.2. Repairs to or replacement of failing onsite wastewater systems shall not be allowed where a wastewater treatment facility is accessible for connection.

### ~~301. DISCHARGE OF WASTE~~ **301. Discharge of Waste.**

No septic tank effluent or domestic wastewater or sewage shall be discharged to the surface of the ground or into any stream or body of water in South Carolina without an appropriate permit from the Department.

### ~~302. ENFORCEMENT PROVISIONS~~

~~—(1) This regulation is issued under the authority of Section 44-1-140(11) of the 1976 Code of Laws, as amended, and Section 48-1-10 et seq. of the 1976 Code of Laws, as amended. It shall be enforced in accordance with interpretations and public health reasons approved by the Department.~~

~~—(2) The Department may temporarily suspend a permit for a violation of this regulation.~~

~~—(3) The Department may revoke a permit for a violation of this regulation. The Department will revoke a permit when:~~

~~—(a) the onsite wastewater system is malfunctioning and sewage is discharging to the ground or the groundwater, the holder of the permit has received notice that the system is malfunctioning, the Department has given notice that repairs must be made within a reasonable period of time, the holder of the permit has not made the repairs, and the system continues to discharge sewage to the ground or the groundwater; or~~

~~—(b) the onsite wastewater system is malfunctioning and sewage is discharging to the ground or the groundwater, the holder of the permit has received notice that the system is malfunctioning, the Department has given notice that a wastewater treatment facility is accessible for connection.~~

~~—(4) Following revocation under R.61-56.302.3.a, the holder of the revoked permit can obtain a repair permit and make the necessary repairs to the system. After the Department approves the repairs pursuant to Section 103.3 of this regulation, the holder of the permit will operate the onsite wastewater system under the terms of the new permit.~~

~~—(5) In addition to the authority to suspend and revoke permits, the Department may seek enforcement and issue civil penalties in accordance with SC Code Ann. Sections 44-1-150 and 48-1-320, 330, and 340. The Department shall have the authority to assess and suspend civil penalties if the violations of this regulation are corrected in a period of time established by the Department.~~

~~—(6) A Department decision involving the issuance, denial, renewal, modification, 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. Any person to whom an order or enforcement letter is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.~~

### ~~303. REPEAL AND DATE OF EFFECT~~

~~This regulation shall become effective as provided in Section 12310 et seq. of the 1976 Code of Laws of South Carolina, as amended, and shall repeal Department of Health and Environmental Control R. 6156 of the Code of Laws of South Carolina, 1976; except that, Sections 200.6(2) and 200.6(4) shall become effective on January 1, 2009, and existing Sections V.E(b) and (c) shall remain in effect until that date.~~

~~304. CHANGES IN USE THAT IMPACT EXISTING ONSITE WASTEWATER SYSTEMS~~**302.**  
**Changes in Use That Impact Existing Onsite Wastewater Systems.**

If the use of a dwelling or facility is changed such that additions or alterations are proposed which increase wastewater flow, change wastewater characteristics, or compromise the integrity or function of the system, the onsite wastewater system shall be brought into full compliance with this regulation. ~~Alterations that change the wastewater characteristics or increase wastewater flow will require the owner to apply for~~submit an application and receive an approval a permit to construct for the upgrade/expansion prior to any alterations.

~~305 SEVERABILITY CLAUSE~~

~~Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.~~

400

~~APPENDICES OF STANDARDS FOR ONSITE WASTEWATER SYSTEMS~~

**400. Appendices of Standards for Permitted Systems.**

**Appendix A – System Standard 100/101 – Conventional with 14-Inch Aggregate Depth**

(1) Site/Permitting Requirements

(a) The depth to the zone of saturation (ZOS) must be at least twenty-nine (29) inches below the naturally occurring soil surface and at least six (6) inches below the bottom of the proposed wastewater infiltration trenches at the deepest point of effluent application.

(b) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches at the deepest point of effluent application.

(c) The long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

(d) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. This area shall have a suitable configuration and shall meet the minimum soil and site conditions of this regulation.

(e) This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

(2) Installation Requirements

(a) The wastewater infiltration trench aggregate shall be fourteen (14) inches in depth and shall be placed so as to provide six (6) inches of aggregate below the pipe, five (5) inches beside the pipe, and three (3) inches above the pipe. The aggregate shall be covered with at least nine (9) inches of soil.

(b) The wastewater infiltration trench width shall be thirty-six (36) inches.



(c) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

(d) All tree and brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

(3) Final Landscaping and Drainage

(a) Installation of drainage swales, ditches, curtain drains, and rain gutters may be required to divert or intercept water away from the onsite wastewater system location to a positive outfall. The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

(b) A barrier to preclude parking and vehicular traffic over the system area may be required.

(c) Following final landscaping, seeding, or sodding may be required to prevent erosion.

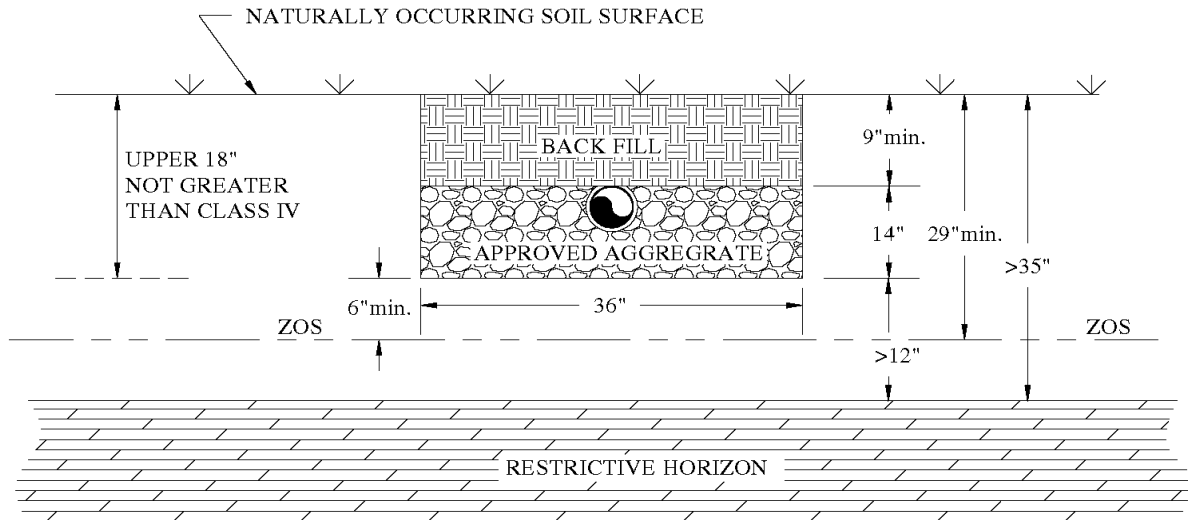
(d) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

CONVENTIONAL STANDARD  
WITH FOURTEEN (14) INCH AGGREGATE DEPTH

PROGRAM 360/ CODE 100 / CODE 101 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

03/09/2018

~~401. Appendix A – SYSTEM STANDARD 150 – LARGE (greater than 1500 GPD) AND COMMUNITY ONSITE WASTEWATER SYSTEMS~~ **Appendix B – System Standard 150 – Large (greater than 1500 gpd) and Community Systems**

~~401.1 SITE/PERMITTING REQUIREMENTS~~

(1) Site/Permitting Requirements

~~(a) The Department may require that designs~~ Designs for large and community onsite wastewater systems shall be prepared by a Registered Professional Engineer licensed in the State of South Carolina. Further, the Department may require whatever engineering and soils based submittals are deemed necessary to determine the feasibility and acceptability of any site for such a system.

~~(b) No part of the system, with the exception of solid pipe, may be located within one hundred (100) linear feet of a receptor.~~

~~(2) (c) The depth to the zone of saturation (ZOS) shall be at least thirty-six (36) inches below the naturally occurring soil surface, and at least six (6) inches below the deepest point of effluent application.~~

~~(3) (d) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.~~

~~(4) (e) The Long Term Acceptance Rate~~ long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting, naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(5) (f) There shall be at least fifty (50) percent reserved subsurface wastewater infiltration area repair or replacement area available consisting of soils suitable for a large onsite wastewater system, except where public (community) systems are utilized, in which case there must be at least one hundred (100) percent repair or replacement area.~~

~~(6) (g) Large (greater than 1500 gpd) and community onsite wastewater systems incorporating advanced treatment methods, including but not limited to aerobic pre-treatment, lagoons, surface or subsurface drip irrigation, low pressure pipe distribution, and other maintenance intensive methods, shall be required to obtain a Land Application Permit under R. 61-9.505~~ R.61-9.505.

~~(7) (h) Efforts to circumvent the requirements of this standard by configuring remote, individually deeded, adjacently located subsurface wastewater infiltration areas in lieu of a community onsite wastewater system shall not be permitted. -On a very limited basis, a few of these individual systems may be considered for mass installation where the wastewater infiltration trenches will be adjacent to each other in a defined area, provided that the combined peak wastewater loading is less than fifteen hundred (1500) gpd. -In such cases:~~

~~(a) (i) Each subsurface wastewater infiltration area plot shall be sized such that there is sufficient area for one hundred (100) percent subsurface wastewater infiltration area replacement.~~

~~(b) (ii) Each plot shall be deeded with all appropriate easements as a lot in conjunction with the specific unit that it serves, and required protective offsets, as described in Section 200.6, shall apply to each individual remote subsurface wastewater infiltration area.~~

~~(e)~~ (iii) A plan shall be prepared by a Registered Professional Engineer licensed in the State of South Carolina that illustrates the overall plan; specifies the route and identification of effluent sewers and ~~for~~ remains force mains; specifies the entity responsible for perpetual maintenance of the sewer lines and mass subsurface wastewater infiltration area; specifies the configuration and identification of the individual subsurface wastewater infiltration area parcels; and specifies the manner in which ingress and egress will be provided to the individual subsurface wastewater infiltration area parcels.

~~(d)~~ (iv) When the combined peak wastewater loading of the adjacently located subsurface wastewater infiltration areas from the entire project will exceed fifteen hundred (1500) gpd, the project shall be considered as a public (community) collection and treatment system, and all requirements described in Section ~~402.5-103.1(5)~~ and this standard shall apply.

#### ~~401.2~~ INSTALLATION REQUIREMENTS (2) Installation Requirements

~~(1)~~ (a) Large (greater than 1500 gpd) and community onsite wastewater systems shall not be constructed in fill material; and shall not be placed any closer to receptors than one hundred (100) feet.

~~(2)~~ (b) Conventional wastewater infiltration trenches installed in the naturally occurring soil and having a width of thirty-six (36) inches shall be utilized.

~~(3)~~ (c) Wherever possible, designs that favor long wastewater infiltration trenches, convex landscape positions, and rectangular subsurface wastewater infiltration area configurations shall be required.

~~(4)~~ (d) All tree/brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

#### ~~401.3~~ COMMUNITY OR CLUSTER COLLECTION AND TREATMENT ONSITE WASTEWATER SYSTEMS (3) Community or Cluster Collection and Treatment Onsite Wastewater Systems

~~(1)~~ (a) An onsite wastewater system serving more than one (1) piece of deeded property shall be considered as a public (community) collection and treatment system.

~~(2)~~ (b) A permit activity will not occur that is inconsistent with a plan or plan amendment approved under Section 208(b) of the Clean Water Act, unless the Department finds such variance necessary to protect the public's health, safety, and welfare.

~~(3)~~ (c) A public entity shall own the system and shall be responsible for the operation, maintenance, and replacement of all components unless otherwise approved by the Department. -The Department may consider a request from a private entity or person; however, such proposals must be evaluated on a case-by-case basis. -The Department will evaluate the capability of long-term, reliable system operation in its evaluation of a permit request.

~~(4)~~ (d) If the project is owned by a private entity or person, the Department shall require financial assurances for the operation, maintenance, and replacement of the tank(s) and subsurface wastewater infiltration area system and relevant collection/pumping components.

~~(5)~~ (e) ~~Sufficient area meeting the minimum requirements for large onsite wastewater systems shall be provided for at least one hundred (100) percent repair or replacement of the primary subsurface wastewater infiltration area.~~ There shall be an area equivalent to one hundred (100) percent in size of the original primary subsurface wastewater infiltration area held in reserve for system repair or replacement.

This area shall have a suitable configuration and shall meet all minimum requirements for large onsite wastewater systems.

~~(6)~~ (f) The collection sewer and pumping portions of a community onsite wastewater system shall receive a separate Construction Permit under ~~R. 61-67.300~~R.61-67.300.

~~(7)~~ (g) The ~~permit holder~~responsible party(s) on record shall be required to properly operate and maintain in good working order all system(s) parts, and operate as efficiently as possible, all facilities and systems which are installed pursuant to the permit and to comply with all terms and conditions of the permit. System parts include, but are not limited to, sealed watertight tanks, lid(s), piping, aggregate, pump, and pump components.

~~402. Appendix B – System Standard 210/211 – Shallow Placement With 9-Inch Aggregate Depth~~  
**Appendix C – System Standard 210/211 – Shallow Placement with 9-Inch Aggregate Depth**

~~402.1 – SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1)~~ (a) There must not be a zone of saturation (ZOS) within twenty-four (24) inches of the naturally occurring soil surface.

~~(2)~~ (b) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ (c) The texture in the upper eighteen (18) inches of naturally occurring soil may either be Class I, Class II, Class III, or Class IV.

~~(4)~~ (d) The ~~Long-Term Acceptance Rate~~long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(5)~~ (e) Due to the decreased sidewall absorption area and the increased potential for ground water mounding near the surface, the Equivalency Factors for these systems shall be calculated by conventional wastewater infiltration trenches and increased by an additional factor of 0.09 times.

~~(6)~~ (f) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R. 61-56~~ this regulation.

~~(7)~~ (g) This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons. ~~Level installations on slightly sloping sites can be considered if the above requirements can be met.~~

~~(8)~~ (h) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per day~~ gpd.

~~402.2 – INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1) – Serial distribution is restricted (see item 7. above).~~

~~(2)~~ (a) The wastewater infiltration trench aggregate shall be nine (9) inches in depth and shall be covered with at least nine (9) inches of backfill.

~~(3)~~ (b) The ~~maximum~~ wastewater infiltration trench width shall be thirty-six (36) inches; ~~the minimum width shall be eighteen (18) inches.~~

~~(4)~~ (c) The maximum depth of the bottom of the wastewater infiltration trench shall be eighteen (18) inches below the naturally occurring soil surface unless it can be demonstrated that deeper placement can meet the required textural limitations and the offsets to the zone of saturation and restrictive horizons.

~~(5)~~ (d) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(6)~~ (e) All tree and brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

#### ~~402.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) Installation of drainage swales, ditches, curtain drains, and rain gutters may be required to divert or intercept water away from the onsite wastewater system location to a positive outfall. -The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

~~(2)~~ (b) A barrier to preclude parking and vehicular traffic over the system area may be required.

~~(3)~~ (c) Following final landscaping, seeding or sodding may be required to prevent erosion.

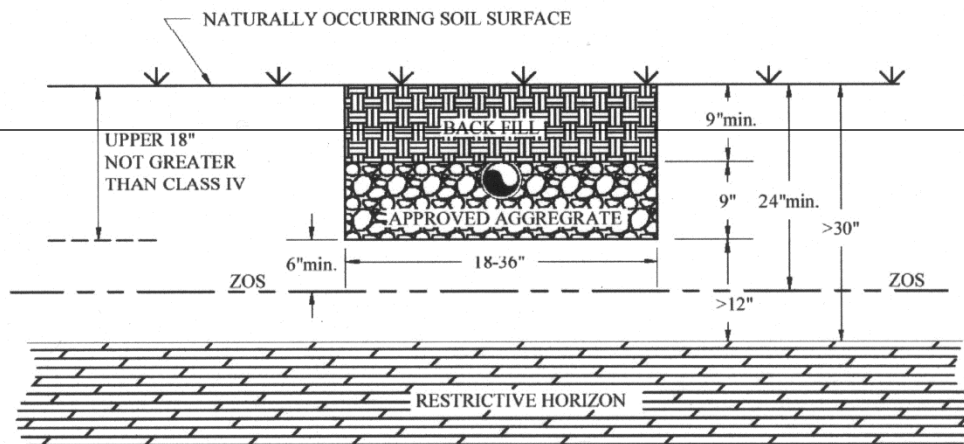
~~(4)~~ (d) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
SHALLOW PLACEMENT WITH NINE (9) INCH AGGREGATE DEPTH

PROGRAM 362 / CODE 210 / CODE 211 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



SCALE: 3/4"=1'

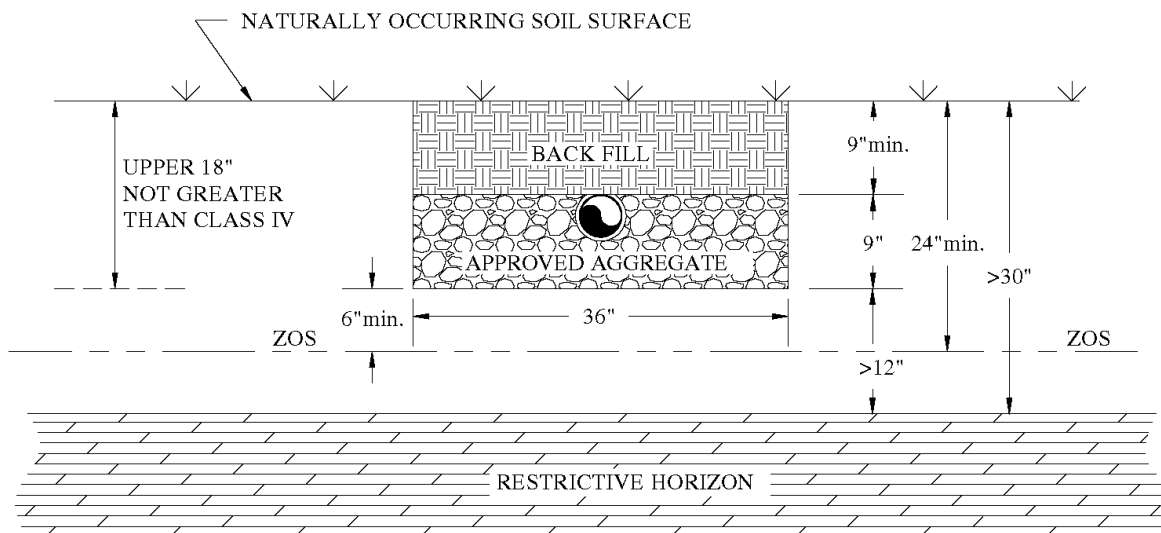
TLS REV 03/2007

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE STANDARD  
SHALLOW PLACEMENT WITH NINE (9) INCH AGGREGATE DEPTH

PROGRAM 362 / CODE 210 / CODE 211 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

REV. 03/09/2018



~~403 Appendix C SYSTEM STANDARD 220/221 SHALLOW PLACEMENT WITH 6 INCH AGGREGATE DEPTH~~  
**Appendix D – System Standard 220/221 – Shallow Placement with Six (6)-Inch Aggregate Depth**

~~403.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1)~~ (a) There must not be a zone of saturation (ZOS) within twenty-one (21) inches of the naturally occurring soil surface.

~~(2)~~ (b) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ (c) The texture in the upper eighteen (18) inches of naturally occurring soil may either be Class I, Class II, Class III, or Class IV.

~~(4)~~ (d) The ~~Long Term Acceptance Rate~~long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(5)~~ (e) Due to the decreased sidewall absorption area and the increased potential for ground water mounding near the surface, the Equivalency Factors for these systems shall be calculated by conventional wastewater infiltration trenches and increased by an additional factor of 0.12 times.

~~(6)~~ (f) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration; and shall meet the minimum soil and site conditions of ~~R. 61-56~~ this regulation.

~~(7)~~ (g) This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons. ~~Level installations on slightly sloping sites can be considered if the above limitations can be met.~~

~~(8)~~ (h) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per day~~gpd.

~~403.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1) Serial distribution is restricted (see Section 403.1(7)).~~

~~(2)~~ (a) The wastewater infiltration trench aggregate shall be six (6) inches in depth and shall be covered with at least nine (9) inches of backfill.

~~(3)~~ (b) The ~~maximum~~ wastewater infiltration trench width shall be thirty-six (36) inches; ~~the minimum width shall be eighteen (18) inches.~~

~~(4)~~ (c) The maximum depth of the bottom of the wastewater infiltration trench shall be fifteen (15) inches below the naturally occurring soil surface unless it can be demonstrated that deeper placement can meet the required textural limitations and the offsets to the zone of saturation and restrictive horizons.

~~(5)~~ (d) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(6)~~ (e) All tree and brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

~~403.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) Installation of drainage swales, ditches, curtain drains, and rain gutters may be required to divert or intercept water away from the onsite wastewater system location to a positive outfall. -The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

~~(2)~~ (b) A barrier to preclude parking and vehicular traffic over the system area may be required.

~~(3)~~ (c) Following final landscaping, seeding or sodding may be required to prevent erosion.

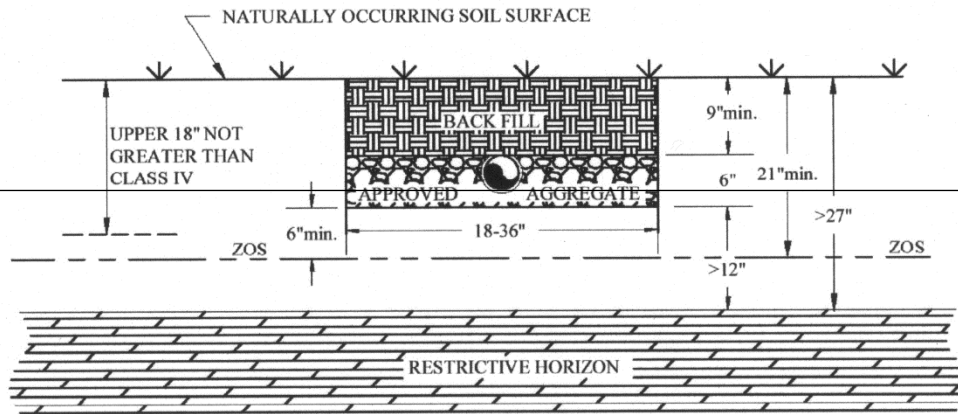
~~(4)~~ (d) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
SHALLOW PLACEMENT WITH SIX (6) INCH AGGREGATE DEPTH

PROGRAM 362 / CODE 220 / CODE 221 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**

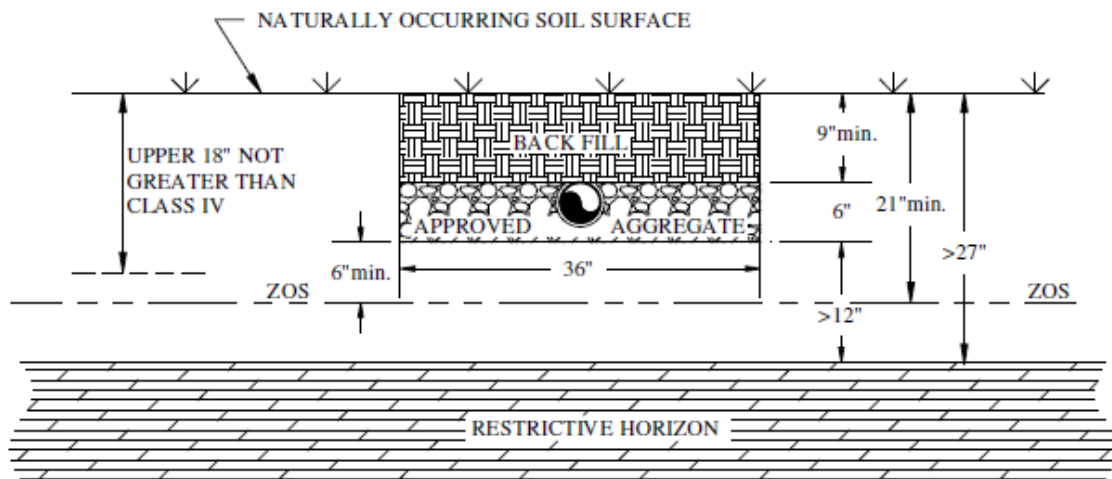


**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE STANDARD  
SHALLOW PLACEMENT WITH SIX (6) INCH AGGREGATE DEPTH

PROGRAM 362 / CODE 220 / CODE 221 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

Rev. 03/09/18

~~404 APPENDIX D System Standard 230/231 Shallow Placement System WITH 14 INCH AGGREGATE DEPTH With Fill Cap~~  
**Appendix E – System Standard 230/231 – Shallow Placement with 14-Inch Aggregate Depth with Fill Cap**

~~404.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1) (a)~~ There must not be a zone of saturation (ZOS) within twenty (20) inches of the naturally occurring soil surface.

~~(2) (b)~~ The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3) (c)~~ The texture in the upper eighteen (18) inches of naturally occurring soil must be no more limiting than Class III.

~~(4) (d)~~ This system must not be utilized on sites that require serial distribution. Level installations on slightly sloping sites can be considered if it can be demonstrated that the entire installation (i.e., side wall to side wall and end to end) will meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons. This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

~~(5) (e)~~ The ~~Long Term Acceptance Rate~~long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(6) (f)~~ The total linear footage of wastewater infiltration trenches shall be the same as that required for conventional systems.

~~(7) (g)~~ There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. ~~This area shall have a suitable configuration; and shall meet the minimum soil and site conditions of R-61-56~~this regulation.

~~(8) (h)~~ This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per day~~gpd.

~~404.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1) (a)~~ The ~~maximum~~ wastewater infiltration trench width ~~must not exceed~~shall be thirty-six (36) inches; ~~the minimum width shall be eighteen (18) inches.~~

~~(2) (b)~~ The maximum depth of the bottom of the wastewater infiltration trench shall be fourteen (14) inches below the naturally occurring soil surface unless it can be demonstrated that deeper placement can meet the required textural limitations and the offsets to the zone of saturation and restrictive horizons.

~~(3) (c)~~ The depth of the fill cap shall provide a minimum of twelve (12) inches ~~backfill~~of soil cover above the top of the wastewater infiltration trench aggregate. ~~(see attached illustration)~~

~~(4)~~ (d) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(5)~~ (e) The required fill cap must extend at least five (5) feet beyond the limits of the subsurface wastewater infiltration trenches; and must taper to the original soil surface at a slope not to exceed 10 percent. ~~(see attached illustration)~~. On sloping sites, where serial distribution has been incorporated into the system design, on the lower side and ends of the wastewater infiltration trenches, the fill cap must extend to at least ten (10) feet beyond the limits of the wastewater infiltration trenches and must taper to the original soil surface at a slope not to exceed five (5) percent. The required property line setback shall be measured from the point at which the fill cap taper intersects with the natural soil surface. The fill cap must be installed prior to beginning trench installation when required on the construction permit.

~~(6)~~ (f) The required fill material must be soil texture Class I, Class II<sub>s</sub>, or Class III and be devoid of extraneous debris such as organic matter, building materials, etc.

~~(7)~~ (g) The wastewater infiltration trench aggregate shall be fourteen (14) inches in depth.

~~(8)~~ (h) All tree/brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

#### ~~404.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) The septic tank and fill cap area shall be backfilled and shaped to promote the runoff of surface water.

~~(2)~~ (b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the fill cap area to divert surface water away from the onsite wastewater system to a positive outfall. –The installation of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

~~(3)~~ (c) A barrier to preclude parking and vehicular traffic over the system area may be required.

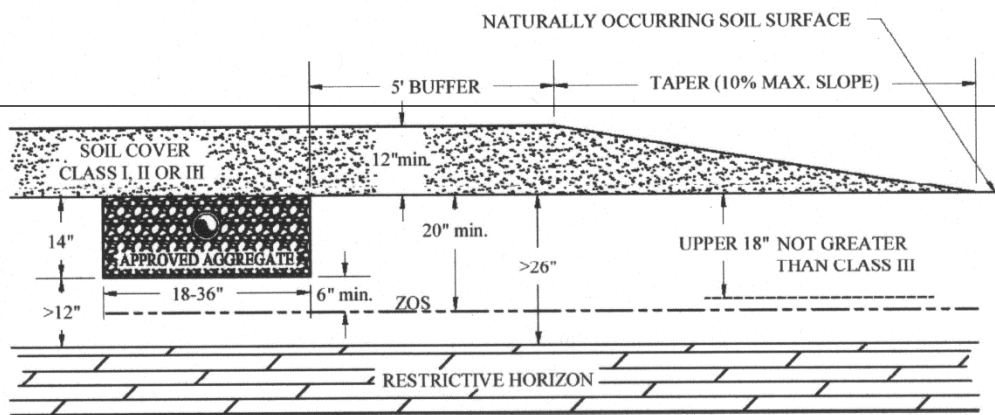
~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
SHALLOW PLACEMENT SYSTEM WITH FILL CAP  
PROGRAM 362 / CODE 230 / CODE 231 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



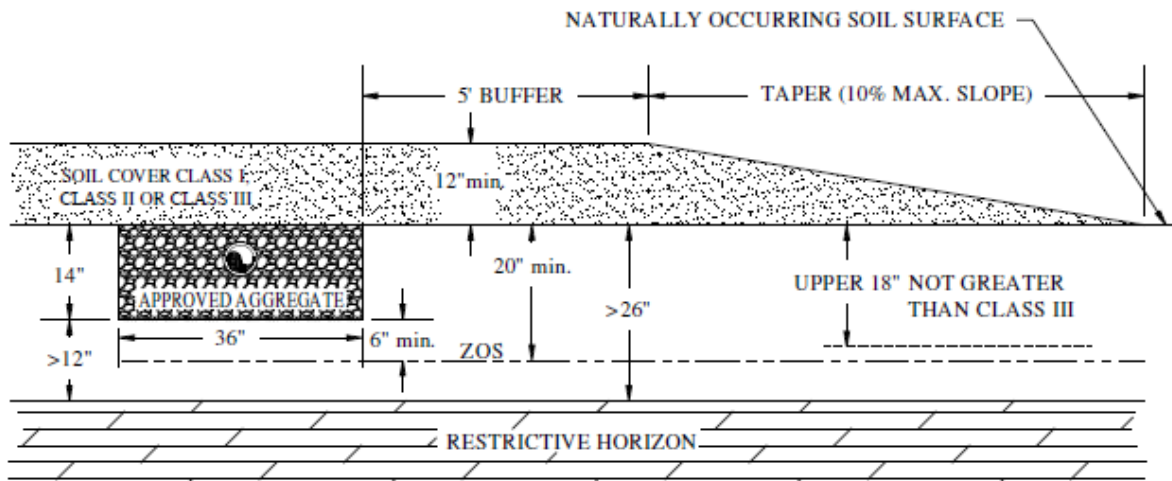
NOT TO SCALE

T14 REV. 03/16/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**ALTERNATIVE STANDARD  
SHALLOW PLACEMENT SYSTEM WITH FILL CAP  
PROGRAM 362 / CODE 230 / CODE 231 IF PUMPED**

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

Rev. 03/09/18



~~405 Appendix E SYSTEM STANDARD 240/241 ULTRA SHALLOW PLACEMENT WITH 6-INCH AGGREGATE DEPTH WITH FILL CAP~~  
**Appendix F – System Standard 240/241 – Ultra-Shallow Placement with 6-Inch Aggregate Depth with Fill Cap**

~~405.1 SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

~~(1)~~ (a) There must not be a zone of saturation (ZOS) within twelve (12) inches of the naturally occurring soil surface.

~~(2)~~ (b) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ (c) The soil texture in the upper eighteen (18) inches of naturally occurring soil must be no more limiting than Class III.

~~(4)~~ (d) This system must not be utilized on sites that require serial distribution. Level installations on slightly sloping sites can be considered if it can be demonstrated that the entire installation (i.e., side wall to side wall and end to end) will meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons. This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) meets the required textural limitations and required offsets to the zone of saturation and restrictive horizons.

~~(5)~~ (e) No part of this system can be installed within one hundred twenty-five (125) feet of the critical area line or tidal waters as determined by the Department; or within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters.

~~(6)~~ (f) The ~~Long Term Acceptance Rate~~ long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(7)~~ (g) Due to the decreased sidewall area and the increased potential for ground water mounding near the surface, the Equivalency Factors for these systems shall be calculated by conventional wastewater infiltration trenches and increased by an additional factor of 0.12 times.

~~(8)~~ (h) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. ~~This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of R-61-56~~ this regulation.

~~(9)~~ (i) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) gallons per day gpd.

405.2 ~~INSTALLATION REQUIREMENTS~~ (2) Installation Requirements

~~(1)~~ (a) The ~~maximum~~ wastewater infiltration trench width must not exceed shall be thirty-six (36) inches; ~~the minimum width shall be 18 inches.~~

~~(2)~~ (b) The maximum depth of the bottom of the wastewater infiltration trench shall be six (6) inches below the naturally occurring soil surface unless it can be demonstrated that deeper placement can meet the required textural limitations and offsets to the zone of saturation and restrictive horizons.

~~(3)~~ (c) The depth of the fill cap shall provide a minimum of twelve (12) inches backfill above the top of the wastewater infiltration trench aggregate ~~(see attached illustration)~~.

(4) (d) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(5)~~ (e) The required fill cap must extend at least five (5) feet beyond the limits of the subsurface wastewater infiltration trenches, and must taper to the original soil surface at a slope not to exceed of 10 percent. ~~(see attached illustration)~~ On sloping sites where serial distribution has been incorporated into the system design, on the lower side and ends of the wastewater infiltration trenches, the fill cap must extend to at least ten (10) feet beyond the limits of the wastewater infiltration trenches and must taper to the original soil surface at a slope not to exceed five (5) percent. -The required property line setback shall be measured from the point at which the fill cap taper intersects with the natural soil surface. The fill cap must be installed prior to beginning trench installation when required on the construction permit.

(6) (f) The required fill material must be soil texture Class I, Class II, or Class III, and be devoid of extraneous debris such as organic matter, building materials, etc.

(7) (g) The wastewater infiltration trench aggregate shall be six (6) inches in depth.

(8) (h) All tree/brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

#### ~~405.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

(1) (a) The septic tank and fill cap area shall be backfilled and shaped to promote the runoff of surface water.

(2) (b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the fill cap area to divert surface water away from the onsite wastewater system to a positive outfall. -The installation of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

(3) (c) A barrier to preclude parking and vehicular traffic over the system area may be required.

~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

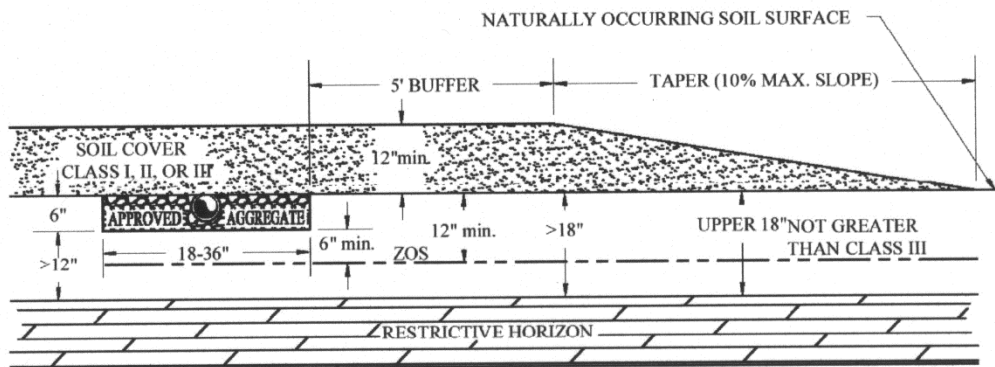
~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
ULTRA-SHALLOW PLACEMENT SYSTEM WITH FILL CAP

PROGRAM 362 / CODE 240 / CODE 241 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

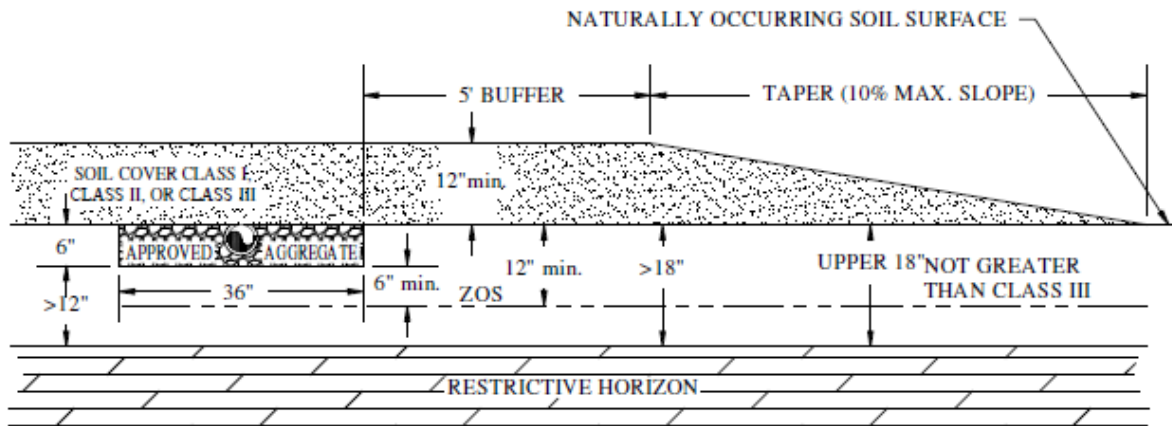
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SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

ALTERNATIVE STANDARD  
ULTRA-SHALLOW PLACEMENT SYSTEM WITH FILL CAP

PROGRAM 362 / CODE 240 / CODE 241 IF PUMPED

TYPICAL DESIGN ILLUSTRATION



NOT TO SCALE

Rev. 03/09/18

~~406 APPENDIX F – System Standard 250/251 – Reservoir Infiltration System For Soils With Expansive Clay~~  
**Appendix G – System Standard 250/251 – Reservoir Infiltration System for Soils with Expansive Clay**

~~406.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

- ~~(1)~~ (a) Rock formations must be greater than four (4) feet below the naturally occurring soil surface.
- ~~(2)~~ (b) For standard installations (see Typical Design Illustration A), the wastewater infiltration trenches must penetrate the saprolite at least six (6) inches. ~~Also, there~~ There must be an offset greater than twelve (12) inches between the bottom of the trenches and any rock formations. (i.e., there must be greater than eighteen (18) inches of clean, unconsolidated saprolite below the expansive clay layer.)
- ~~(3)~~ (c) If the unconsolidated saprolite layer is greater than sixty (60) inches below the naturally occurring soil surface (see Typical Design Illustration B), ~~item 2-paragraph (1)(b)~~ (above) shall apply and clean medium sand shall be added to the trenches so that the top of the aggregate will be twelve (12) inches below finished grade.
- (4) (d) There must be no evidence of a zone of saturation (ZOS) in the unconsolidated saprolite layer.
- ~~(5)~~ (e) The ~~Long Term Acceptance Rate~~ long-term acceptance rate shall not exceed 0.25 gpd/sq. ft.
- ~~(6)~~ (f) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. ~~This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of R. 61-56~~ this regulation.
- ~~(7)~~ (g) Sites to be considered for this system shall be evaluated using backhoe pits to describe the soil profile.
- ~~(8)~~ (h) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) gallons per day gpd.

~~(a)~~ (i) Clean, unconsolidated saprolite shall be defined as: ~~Soft~~ soft, friable, thoroughly decomposed rock that has formed in place by chemical weathering, retaining the fabric and structure of the parent rock, and being devoid of expansive clay. Unconsolidated saprolite can be dug using a hand auger or knife. ~~Consolidated saprolite cannot be penetrated with a hand auger or similar tool, and must be dug with a backhoe or other powered equipment.~~

~~(b)~~ (ii) Expansive clay shall be defined as soils containing significant amounts of expansible-layer clay minerals or smectites as evidenced in the field by classifications of Very Sticky and Very Plastic and Structure Grades of Weak or Structureless when evaluated in accordance with the Field Book. ~~Such soils are considered to be unsuitable for onsite wastewater systems.~~

~~406.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

- ~~(1)~~ (a) The ~~aggregate depth of approved aggregate~~ shall be twenty-four (24) inches.
- ~~(2)~~ (b) The depth of medium sand will vary between zero (0) and one hundred twenty (120) inches, depending upon the depth to the saprolite layer.
- ~~(3)~~ (c) The trench width shall be thirty-six (36) inches.

~~(4)~~ (d) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(5)~~ (e) The backfill shall range from twelve (12) inches to thirty-six (36) inches for standard installations (see Typical Design Illustration A); and shall be twelve (12) inches where the depth to saprolite is greater than sixty (60) inches below the naturally occurring soil surface (see Typical Design Illustration B).

~~406.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) On sites where there is evidence of a zone of saturation at the soil-expansive clay interface, a curtain drain must be placed upslope along a contour and must extend the entire length of the subsurface wastewater infiltration area. -The curtain drain shall extend a minimum of six (6) inches into the expansive clay layer. -The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

~~(2)~~ (b) Following final landscaping, seeding or sodding may be required to prevent erosion.

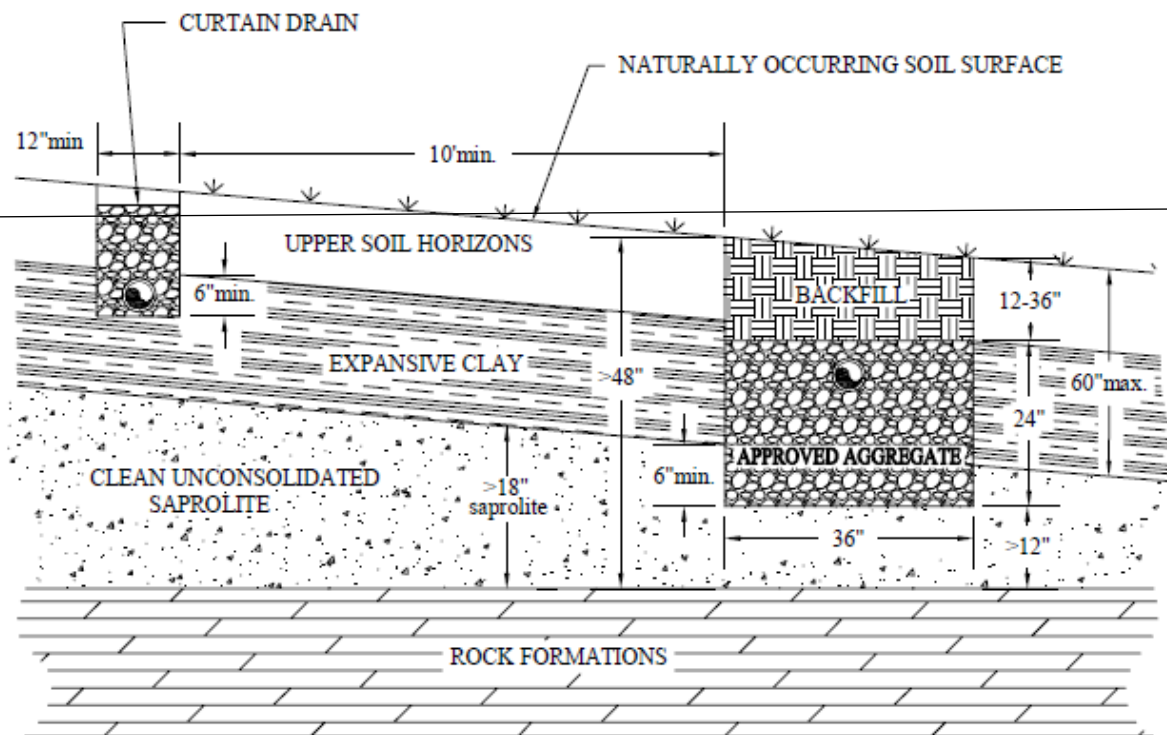
~~(3)~~ (c) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

**ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY**

PROGRAM 362 / CODE 250 / CODE 251 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION (A)  
STANDARD INSTALLATION**



**NOTE: FOR SOILS WITH THICK EXPANSIVE CLAY HORIZONS  
(i.e., DEPTH TO SAPROLITE > 60 INCHES BELOW NATURALLY OCCURRING SOIL SURFACE)  
SEE TYPICAL DESIGN ILLUSTRATION (B)**

NOT TO SCALE

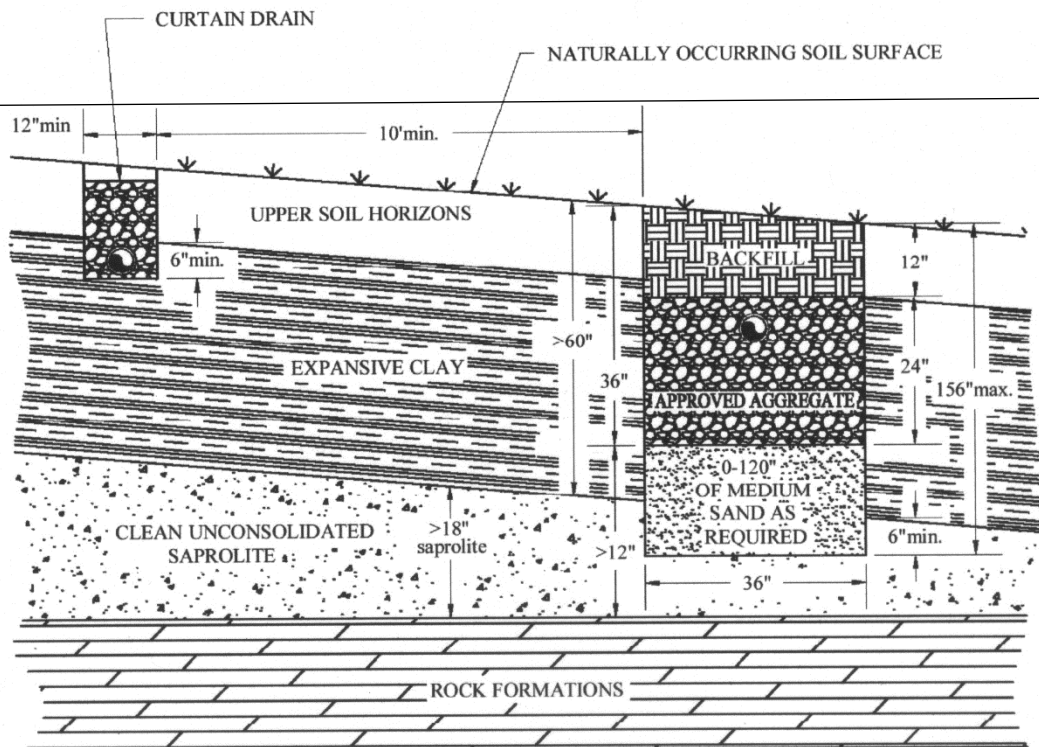
TS & BEV 05/16/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY

PROGRAM 362 / CODE 250 / CODE 251 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION (B)  
WHERE DEPTH TO SAPROLITE > 60in. BELOW SURFACE**



NOTE: FOR SOILS WITH THINNER EXPANSIVE CLAY HORIZONS  
(i.e., DEPTH TO SAPROLITE NOT >60in. BELOW NATURALLY OCCURRING SOIL SURFACE)  
SEE TYPICAL DESIGN ILLUSTRATION (A)

NOT TO SCALE

TLS REV. 03/16/97

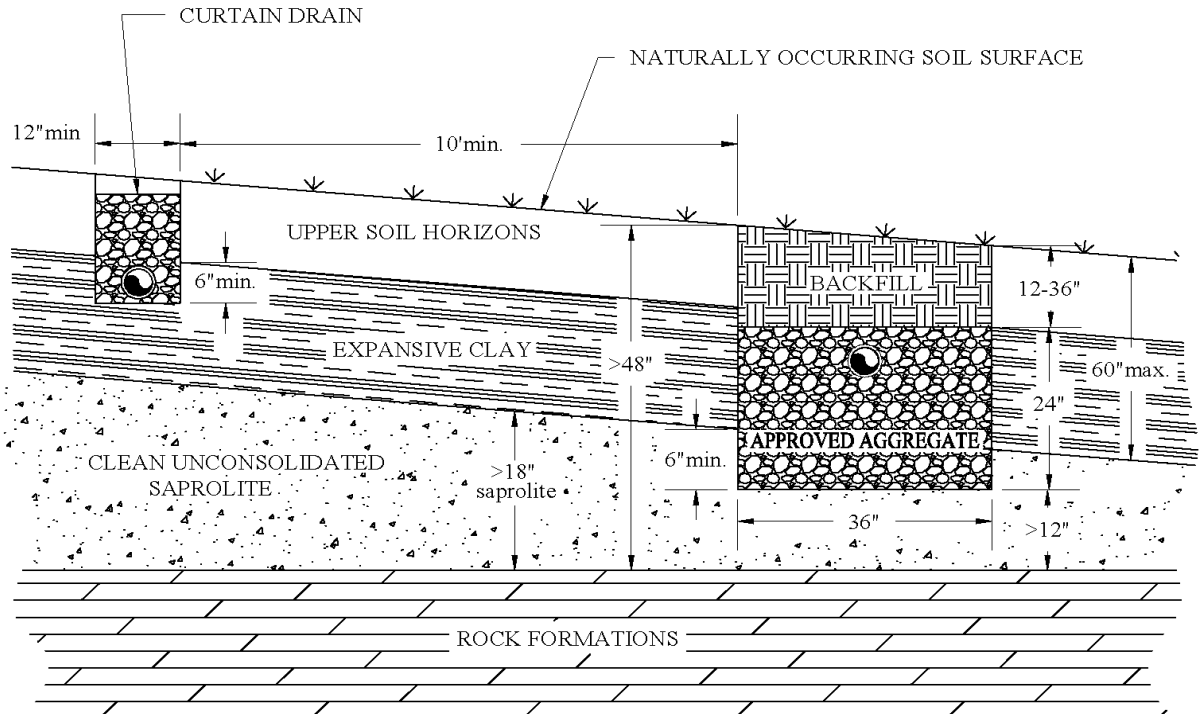


**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY

PROGRAM 362 / CODE 250 / CODE 251 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION (A)  
STANDARD INSTALLATION**



NOTE: FOR SOILS WITH THICK EXPANSIVE CLAY HORIZONS  
(i.e., DEPTH TO SAPROLITE > 60 INCHES BELOW NATURALLY OCCURRING SOIL SURFACE)  
SEE TYPICAL DESIGN ILLUSTRATION (B)

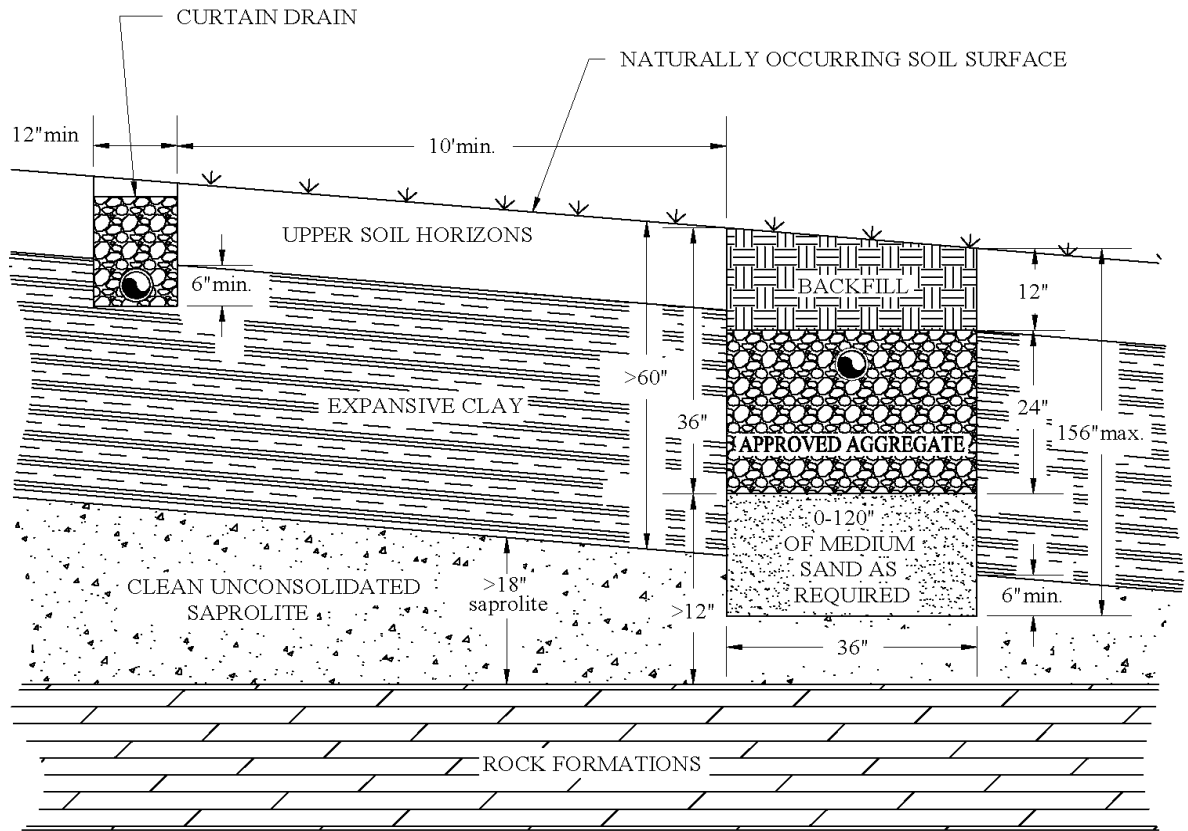
NOT TO SCALE  
REV. 03/09/18

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY

PROGRAM 362 / CODE 250 / CODE 251 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION (B)  
WHERE DEPTH TO SAPROLITE > 60in. BELOW SURFACE**



NOTE: FOR SOILS WITH THINNER EXPANSIVE CLAY HORIZONS  
(i.e., DEPTH TO SAPROLITE NOT >60in. BELOW NATURALLY OCCURRING SOIL SURFACE)  
SEE TYPICAL DESIGN ILLUSTRATION (A)

NOT TO SCALE

REV.03/09/18

407 APPENDIX G System Standard 260/261 9 INCH Shallow Placement System With Fill Cap  
**Appendix H – System Standard 260/261 – 9-Inch Shallow Placement System with Fill Cap**

~~407.1 SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

~~(1)~~ (a) There must not be a zone of saturation (ZOS) within fifteen (15) inches of the naturally occurring soil surface.

~~(2)~~ (b) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ (c) The texture in the upper eighteen (18) inches of naturally occurring soil must be no more limiting than Class III.

~~(4)~~ (d) This system must not be utilized on sites that require serial distribution. Level installations on slightly sloping sites can be considered if it can be demonstrated that the entire installation (i.e., side wall to side wall and end to end) will meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons. This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

~~(5)~~ (e) The ~~Long Term Acceptance Rate~~long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(6)~~ (f) Due to the decreased sidewall absorption area and the increased potential for ground water mounding near the surface, the Equivalency Factors for these systems shall be calculated by conventional wastewater infiltration trenches and increased by an additional factor of 0.09 times.

~~(7)~~ (g) No part of this system can be installed within 125 feet of the critical area line or tidal waters as determined by the Department; or within 125 feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters.

~~(8)~~ (h) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R-61-56~~this regulation.

~~(9)~~ (i) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per day~~gpd.

~~407.2 INSTALLATION REQUIREMENTS~~ (2) Installation Requirements

~~(1)~~ (a) The ~~maximum~~ wastewater infiltration trench width ~~must not exceed~~shall be thirty-six (36) inches; ~~the minimum width shall be eighteen (18) inches.~~

~~(2)~~ (b) The maximum depth of the bottom of the wastewater infiltration trench shall be nine (9) inches below the naturally occurring soil surface unless it can be demonstrated that deeper placement can meet the required textural limitations and the offsets to the zone of saturation and restrictive horizons.

~~(3)~~ (c) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(4)~~ (d) The depth of the fill cap shall provide a minimum of twelve (12) inches backfill above the top of the wastewater infiltration trench aggregate ~~(see attached illustration)~~.

~~(5)~~ (e) The required fill cap must extend at least five (5) feet beyond the limits of the wastewater infiltration trenches; and must taper to the original soil surface at a slope not to exceed 10 percent (see attached illustration). On sloping sites where serial distribution has been incorporated into the system design, on the lower side and ends of the wastewater infiltration trenches, the fill cap must extend to at least ten (10) feet beyond the limits of the wastewater infiltration trenches and must taper to the original soil surface at a slope not to exceed five (5) percent. The required property line setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface. The fill cap must be installed prior to beginning trench installation when required on the construction permit.

~~(6)~~ (f) The required fill material must be soil texture Class I, Class II, or Class III, and be devoid of extraneous debris such as organic matter, building materials, etc.

~~(7)~~ (g) The wastewater infiltration trench aggregate shall be nine (9) inches in depth.

~~(8)~~ (h) All trees/brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

#### ~~407.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) The septic tank and fill cap area shall be backfilled and shaped to promote the runoff of surface water.

~~(2)~~ (b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the fill cap area to divert surface water away from the onsite wastewater system to a positive outfall. –The installation of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

~~(3)~~ (c) A barrier to preclude parking and vehicular traffic over the system area may be required.

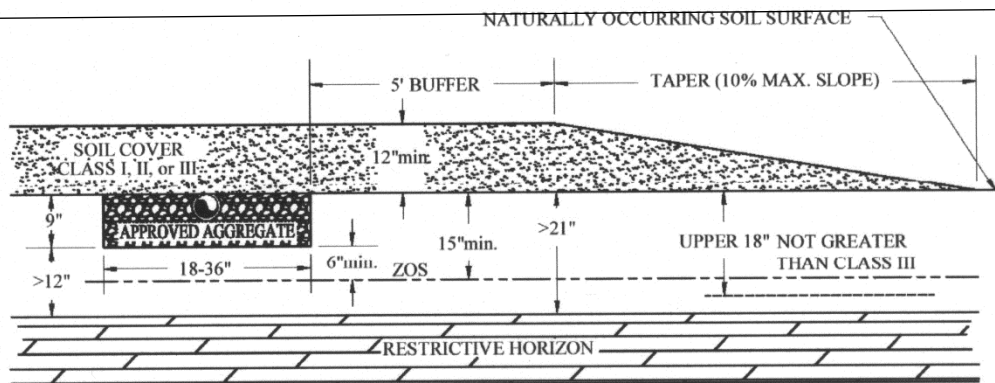
~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
NINE INCH SHALLOW PLACEMENT WITH FILL CAP  
PROGRAM 362 / CODE 260 / CODE 261 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

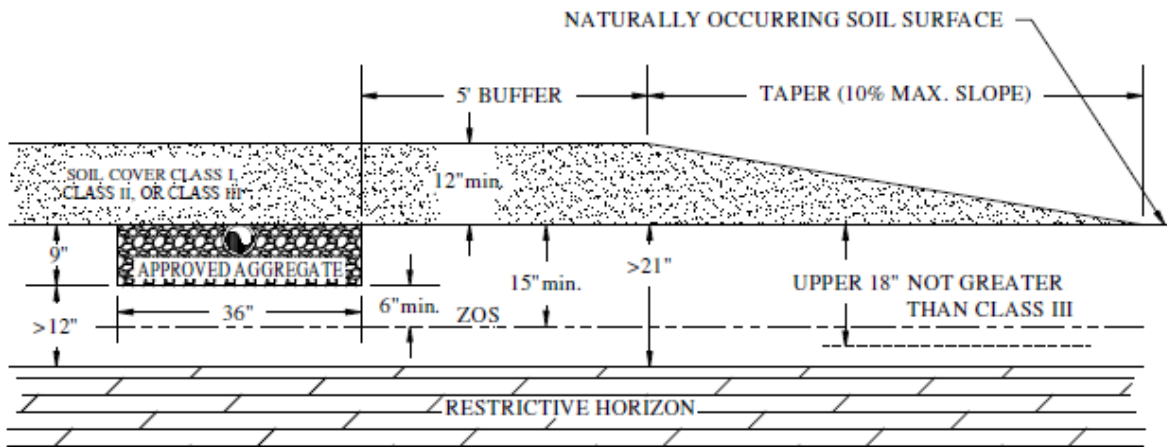
T15 REV. 03/10/97

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

ALTERNATIVE STANDARD  
NINE INCH SHALLOW PLACEMENT WITH FILL CAP

PROGRAM 362 / CODE 260 / CODE 261 IF PUMPED

TYPICAL DESIGN ILLUSTRATION



NOT TO SCALE

Rev. 03/09/18

~~408 APPENDIX H SYSTEM STANDARD 270/271 ALTERNATIVE TRENCH WIDTH AND DEPTH SYSTEMS~~  
**Appendix I – System Standard 270/271 – Alternative Trench Width and Depth Systems**

~~408.1 SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

~~(1) Lot size or suitable area must be too small to accommodate a conventional or alternative onsite wastewater system.~~

~~(2) This Standard and associated systems shall not be used to calculate minimum lot sizes in new subdivisions approved after the effective date of this standard.~~

~~(3)~~ (a) Soil conditions, the depth to rock and other restrictive horizons, the depth to the zone of saturation (ZOS), and the elevation differential between the septic tank outlet and the highest wastewater infiltration trench(es) must meet applicable standards for conventional or alternative onsite wastewater systems.

(4) (b) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R-61-56~~ this regulation.

~~(5)~~ (c) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per daygpd~~ unless the trench width is three (3) feet and the aggregate depth is between fourteen (14) and twenty-eight (28) inches.

(6) (d) The linear footage requirement for an alternative width and depth system shall be determined by first figuring the conventional (~~thirty-six (36)~~ inch wide with fourteen (14) inch aggregate depth) linear footage requirements and then multiplying by the appropriate factor based on desired trench width and aggregate depth. (See table below system illustration for multiplication factors.)

<b>FACTORS (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA</b>						
<b>TRENCH WIDTH (ft.)</b>	<b>AGGREGATE DEPTH (in.)</b>					
	<b>6"*</b>	<b>9"***</b>	<b>14"</b>	<b>20"</b>	<b>24"</b>	<b>28"</b>
<del>XXXXXXX</del> <del>X</del>						
<b>1.5'</b>	2.39	1.94	1.39	1.10	0.97	0.87
<b>2.0'</b>	1.99	1.66	1.23	1.00	0.89	0.80
<b>2.5'</b>	1.71	1.46	1.10	0.91	0.82	0.75
<b>3'</b>	1.50	1.30	1.00	0.84	0.76	0.70***
<b>4'</b>	1.20	1.06	0.84	0.73	0.67	0.62
<b>5'</b>	1.00	0.89	0.73	0.64	0.59	0.55
<b>6'</b>	0.85	0.78	0.64	0.57	0.53	0.50
<b>7'</b>	0.74	0.68	0.57	0.52	0.49	0.46
<b>8'</b>	0.66	0.61	0.52	0.47	0.45	0.42
<b>9'</b>	0.59	0.55	0.47	0.43	0.41	0.39
<b>10'</b>	0.54	0.51	0.43	0.40	0.38	0.36

<b>FACTORS (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA</b>						
<b>TRENCH WIDTH (ft.)</b>	<b>AGGREGATE DEPTH (in.)</b>					
<del>XXXXXXXX</del> <del>X</del>	<del>6" *</del>	<del>9" **</del>	<del>14"</del>	<del>20"</del>	<del>24"</del>	<del>28"</del>
<del><math>F = 5.34 \text{ ft}^2/\text{ft} \frac{\text{---}}{2(\text{SwD} / 12) + \text{TW}}</math></del> <del>* Factors reflect a 12 percent increase</del> <del>** Factors reflect a 9 percent increase</del> <del>*** Use system code 360/380</del>			Where, 5.34 ft <sup>2</sup> /ft = total infiltrative surface area per linear foot of conventional type trench 36 in. wide, 14 in. deep --- SwD = Side Wall Depth (in.) --- TW = Trench Width (ft)			

~~408.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1) (a) Trench widths shall always be kept as narrow as possible and shall not exceed ten (10) feet.~~

~~(2) (b) The aggregate depth shall be between six (6) inches and twenty-eight (28) inches when considering trench widths ranging from one and one-half (1½) to ten (10) feet (see chart). -The aggregate depth may be increased to a maximum of forty-two (42) inches, provided the trench width does not exceed thirty-six (36) inches (Note: ~~in~~ In these cases, the equivalency formula should be utilized to determine the appropriate factor (F) when considering aggregate depths between twenty-eight (28) and forty-two (42) inches). -All trenches shall be covered with at least nine (9) inches of backfill.~~

~~(3) (c) Methods of construction which preclude vehicular compaction of the trench bottom must always be utilized.~~

~~408.3 FINAL LANDSCAPING AND DRAINAGE (3) Final Landscaping and Drainage~~

~~(1) (a) Installation of drainage swales, ditches, diversion drains, or rain gutters may be required to divert or intercept water away from the onsite wastewater system location. -The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.~~

~~(2) (b) A barrier to preclude parking and vehicular traffic over the area of the system may be required.~~

~~(3) (c) Following final landscaping, seeding or sodding may be required to prevent erosion.~~

~~(4) (d) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.~~

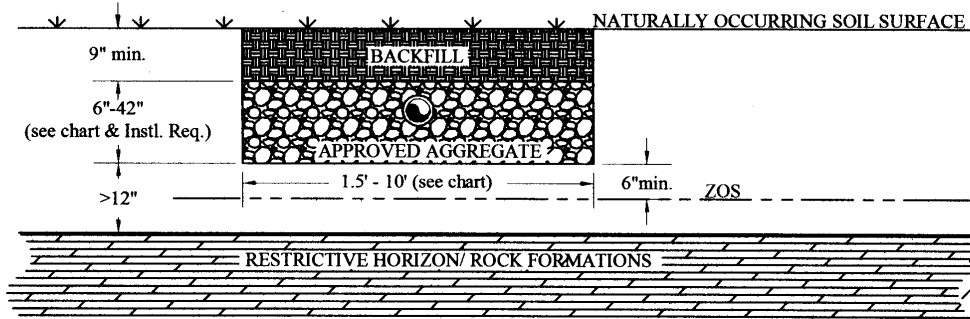


**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
ALTERNATIVE TRENCH WIDTH & DEPTH SYSTEMS

PROGRAM 362 / CODE 270 / CODE 271 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

**FACTORS (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA**

TRENCH WIDTH (ft.)	AGGREGATE DEPTH (in.)					
	6" *	9" **	14"	20"	24"	28"
1.5'	2.39	1.94	1.39	1.10	0.97	0.87
2.0'	1.99	1.66	1.23	1.00	0.89	0.80
2.5'	1.71	1.46	1.10	0.91	0.82	0.75
3.0'	1.50	1.30	1.00	0.84	0.76	0.70***
4.0'	1.20	1.06	0.84	0.73	0.67	0.62
5.0'	1.00	0.89	0.73	0.64	0.59	0.55
6.0'	0.85	0.78	0.64	0.57	0.53	0.50
7.0'	0.74	0.68	0.57	0.52	0.49	0.46
8.0'	0.66	0.61	0.52	0.47	0.45	0.42
9.0'	0.59	0.55	0.47	0.43	0.41	0.39
10.0'	0.54	0.51	0.43	0.40	0.38	0.36

$$F = \frac{5.34 \text{ sqft. / ft}}{2(\text{SwD}/12) + \text{TW}}$$

\* Factors (F) reflect 12% increase  
 \*\* Factors (F) reflect 9% increase  
 \*\*\* Use system code 360/380  
 (See notes in text)

Where, 5.34 sqft/ft = total infiltrative surface area per linear foot of conventional type trench ( 36in. wide, 14in. deep)  
 SwD = Side Wall Depth (in)  
 TW = Trench Width (ft.)

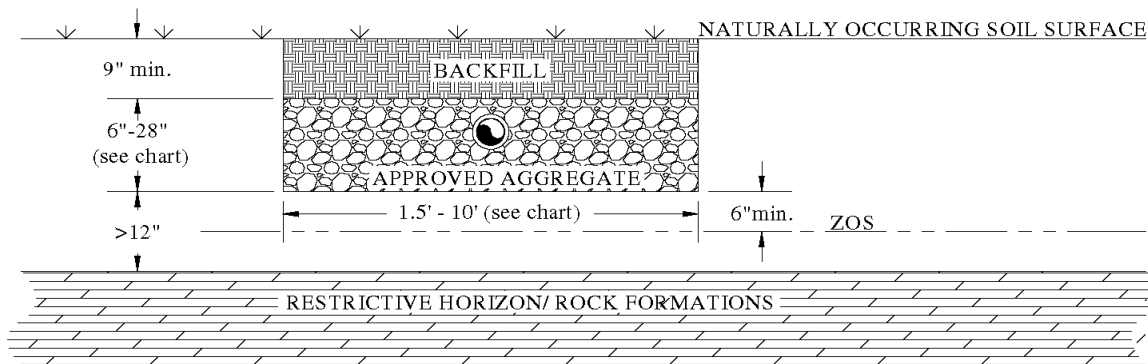
T.L.S. REV. 05/15/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE STANDARD  
ALTERNATIVE TRENCH WIDTH & DEPTH SYSTEMS

PROGRAM 362 / CODE 270 / CODE 271 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

**FACTORS (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA**

TRENCH WIDTH (ft.)	AGGREGATE DEPTH (in.)					
	6" *	9" **	14"	20"	24"	28"
1.5'	2.39	1.94	USE LTAR STANDRRARD	1.10	0.97	0.87
2.0'	1.99	1.66	USE LTAR STANDARD	1.00	0.89	0.80
2.5'	1.71	1.46	USE LTAR STANDARD	0.91	0.82	0.75
3.0'	1.50	1.30	USE LTAR STANDARD	0.84	0.76	0.70 <small>see system 360/380</small>
4.0'	1.20	1.06	0.84	0.73	0.67	0.62
5.0'	1.00	0.89	0.73	0.64	0.59	0.55
6.0'	0.85	0.78	0.64	0.57	0.53	0.50
7.0'	0.74	0.68	0.57	0.52	0.49	0.46
8.0'	0.66	0.61	0.52	0.47	0.45	0.42
9.0'	0.59	0.55	0.47	0.43	0.41	0.39
10.0'	0.54	0.51	0.43	0.40	0.38	0.36

$$F = \frac{5.33 \text{ sqft. / ft}}{2 (SwD / 12) + TW}$$

\* Factors (F) reflect 12% increase  
\*\* Factors (F) reflect 9% increase  
(See notes in text)

Where, 5.33 sqft/ft = total infiltrative surface area per linear foot of conventional type trench ( 36in. wide, 14in. deep)  
SwD = Side Wall Depth (in)  
TW = Trench Width (ft.)

REV. 03/09/2018

~~409 APPENDIX I SYSTEM STANDARD 280/281 RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY SHALLOW ROCK FORMATIONS~~ **Appendix J – System Standard 280/281 – Reservoir Infiltration System for Soils with Expansive Clay Shallow Rock Formations**

~~409.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1)~~ (a) Rock formations must be rippable (~~see Section 409.1(9)(b)~~) to a depth greater than four (4) feet below the naturally occurring soil surface.

~~(2)~~ (b) The soil wastewater infiltration trenches must penetrate the saprolite at least six (6) inches, and there must be an offset greater than twelve (12) inches between the trench bottoms and any rock formations (i.e., there must be at least six (6) inches of clean, unconsolidated saprolite below the expansive clay layer, and medium sand may be added to the excavation to achieve an offset from rock that exceeds twelve (12) inches).

~~(3)~~ (c) There must be no evidence of a zone of saturation (ZOS) in the unconsolidated saprolite layer.

~~(4)~~ (d) The ~~Long Term Acceptance Rate~~ long-term acceptance rate shall not exceed 0.20-gpd/sqft.

~~(5)~~ (e) Effluent discharged to this system must receive a higher degree of treatment than that provided by a conventional septic tank; (~~i.e., e.g., two (2) compartment septic tank or two (2) septic tanks in series~~).

~~(6)~~ (f) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration; and shall meet the minimum soil and site conditions of ~~R. 61-56~~ this regulation.

~~(7)~~ (g) No part of this system can be installed within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of environmentally sensitive waters.

~~(8)~~ (h) Sites to be considered for this system shall be evaluated using backhoe pits to describe the soil profile.

~~(9)~~ (i) This system cannot be considered for facilities with peak flow rates in excess of fifteen hundred (1500) ~~gallons per day~~ gpd.

~~(a)~~ (i) Clean, unconsolidated saprolite shall be defined as: ~~Soft soft~~, friable thoroughly decomposed rock that has formed in place by chemical weathering, retaining the fabric and structure of the parent rock, and being devoid of expansive clay. -Unconsolidated saprolite can be dug using a hand auger or knife. Consolidated saprolite cannot be penetrated with a hand auger or similar tool, and must be dug with a backhoe or other powered equipment.

~~(b)~~ -Rippable rock shall be defined as formations that can be readily dug with a standard rubber-tired backhoe.

~~(e)~~ (ii) Expansive clay shall be defined as soils containing significant amounts of expansible-layer clay minerals (smectites) as evidenced in the field by classifications of Very Sticky and Very Plastic and Structure Grades of Weak or Structureless when evaluated in accordance with the Field Books. -Such soils are considered to be unsuitable for onsite wastewater systems.

~~409.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1)~~ (a) The ~~aggregate~~ depth of approved aggregate shall be at least twenty-four (24) inches.

~~(2)~~ (b) The trench width shall be thirty-six (36) inches.

~~(3)~~ (c) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~409.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) On sites where there is evidence of a zone of saturation at the soil-expansive clay interface, a curtain drain must be placed upslope along a contour and must extend the entire length of the subsurface wastewater infiltration area. -The curtain drain shall extend a minimum of six (6) inches into the expansive clay layer. ~~Also, the~~ The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

~~(2)~~ (b) Final approval shall be withheld until all landscaping, drainage, and other requirements have been satisfactorily completed.

~~(3)~~ (c) Following final landscaping, seeding or sodding may be required to prevent erosion.

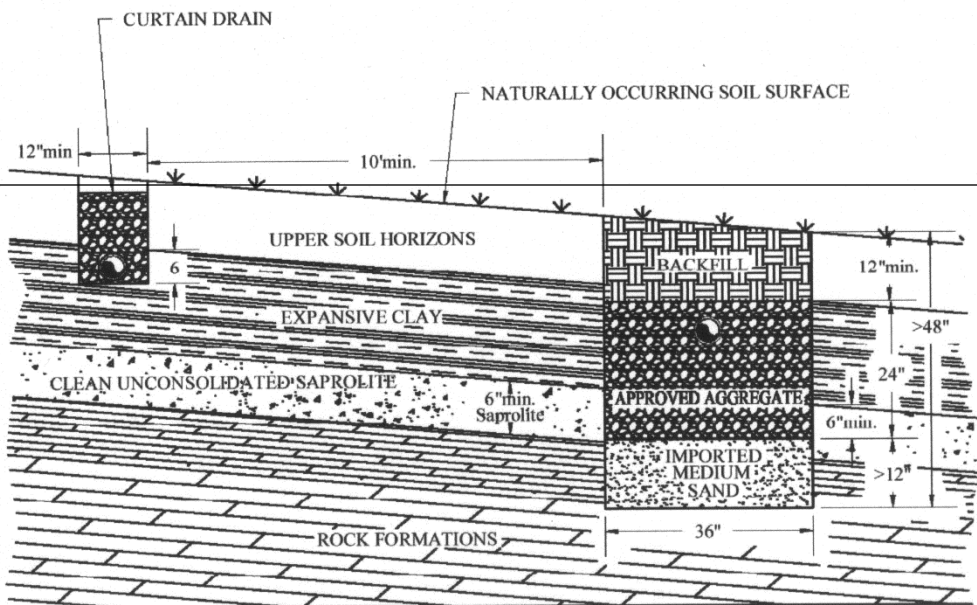
~~(4)~~ (d) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY  
OVER SHALLOW ROCK FORMATIONS

PROGRAM 362 / CODE 280 / CODE 281 IF PUMPED

TYPICAL DESIGN ILLUSTRATION



NOT TO SCALE

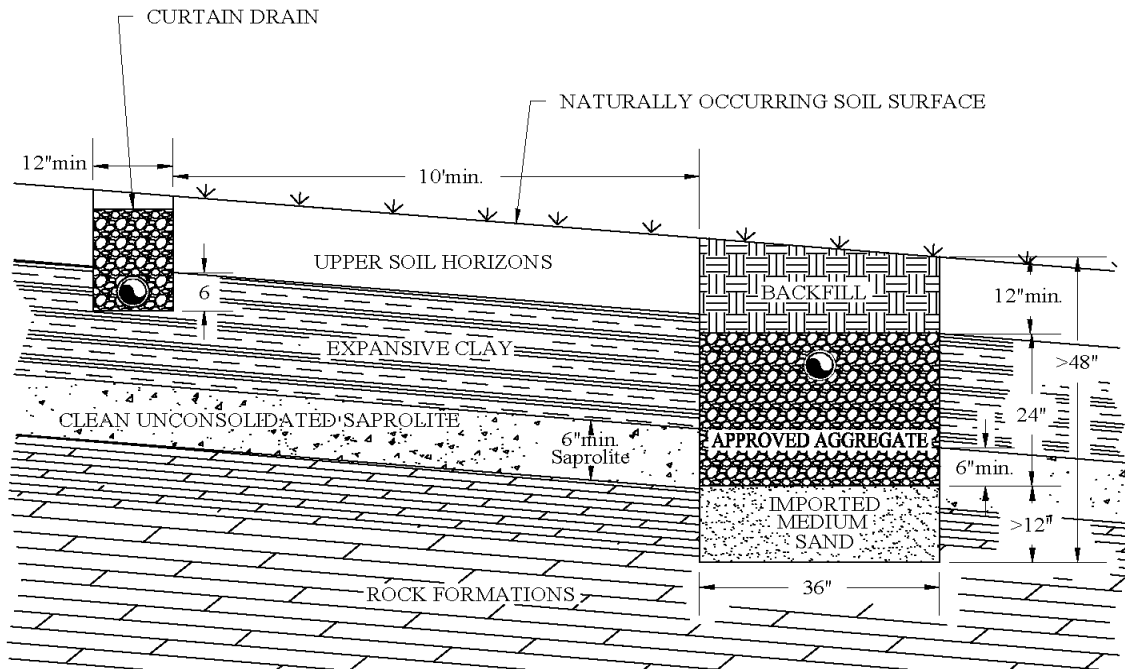
TLS REV 03/2007

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**ALTERNATIVE SYSTEM  
RESERVOIR INFILTRATION SYSTEM FOR SOILS WITH EXPANSIVE CLAY  
OVER SHALLOW ROCK FORMATIONS**

PROGRAM 362 / CODE 280 / CODE 281 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE  
REV. 03/09/19

**Appendix K – System Standard 290/291 – Alternative Trench Width and Depth Systems with Fill Cap**

(1) Site/Permitting Requirements

(a) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

(b) The texture in the upper eighteen (18) inches of naturally occurring soil must be no more limiting than Class III.

(c) Soil conditions, the depth to rock and other restrictive horizons, the depth to the zone of saturation (ZOS), and the elevation differential between the septic tank outlet and the highest wastewater infiltration trench(es) must meet applicable standards for alternative onsite wastewater systems.

(d) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. This area shall have a suitable configuration and shall meet the minimum soil and site conditions of this regulation.

(e) This system cannot be considered for facilities with peak flow rates in excess of six hundred (600) gpd.

(f) The linear footage requirement for an alternative width and depth system shall be determined by first figuring the conventional (36-inch-wide with 14-inch aggregate depth) linear footage requirements and then multiplying by the appropriate factor based on desired trench width and aggregate depth as computed in the following table:

<b><u>FACTOR (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA</u></b>			
<b><u>TRENCH WIDTH (ft.)</u></b>	<b><u>AGGREGATE DEPTH (in.)</u></b>		<b><u># OF DISTRIBUTION PIPES</u></b>
	<b><u>6" *</u></b>	<b><u>9" **</u></b>	
	<b><u>MULTIPLICATION FACTOR</u></b>		
<b><u>4'</u></b>	<u>1.20</u>	<u>1.06</u>	<u>1</u>
<b><u>5'</u></b>	<u>1.00</u>	<u>0.89</u>	<u>1</u>
<b><u>6'</u></b>	<u>0.85</u>	<u>0.78</u>	<u>2</u>
<b><u>7'</u></b>	<u>0.74</u>	<u>0.68</u>	<u>2</u>
<b><u>8'</u></b>	<u>0.66</u>	<u>0.61</u>	<u>2</u>
<b><u>9'</u></b>	<u>0.59</u>	<u>0.55</u>	<u>3</u>
<b><u>10'</u></b>	<u>0.54</u>	<u>0.51</u>	<u>3</u>
* Factors reflect a twelve (12) percent increase			
** Factors reflect a nine (9) percent increase			

(g) This system may only be installed on sites where the long-term acceptance rate (LTAR) for the system will be between 1.0 and 0.5 gpd per foot squared (gpd/ft<sup>2</sup>). The bottom of the absorption field cannot be installed in Class IV soils (0.4 to 0.1 LTAR).

(h) The distribution pipes in the bed shall be at least eighteen (18) inches from the edge of the trench and located on three (3) foot centers.

(i) This system must not be used on sloping sites that require serial distribution unless it can be demonstrated that the entire wastewater infiltration trench installation (i.e., side wall to side wall and end to end) can meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

(j) The long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

## (2) Installation Requirements

(a) Trench widths shall not exceed ten (10) feet.

(b) Wide trenches should be installed by excavating from the sides. Heavy equipment, such as backhoes, may not be placed in the trenches in order to avoid soil compaction.

(c) The required fill cap must extend at least five (5) feet beyond the limits of the wastewater infiltration trenches and must taper to the original soil surface at a slope not to exceed ten (10) percent. On sloping sites, where serial distribution has been incorporated into the system design, on the lower side and ends of the wastewater infiltration trenches, the fill cap must extend to at least ten (10) feet beyond the limits of the wastewater infiltration trenches and must taper to the original soil surface at a slope not to exceed five (5) percent. The required property line setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface. The fill cap must be installed prior to beginning trench installation when required on the construction permit.

## (3) Final Landscaping and Drainage

(a) Installation of drainage swales, ditches, diversion drains, or rain gutters may be required to divert or intercept water away from the onsite wastewater system location. The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

(b) A barrier to preclude parking and vehicular traffic over the area of the system may be required.

(c) Following final landscaping, seeding, or sodding may be required to prevent erosion.

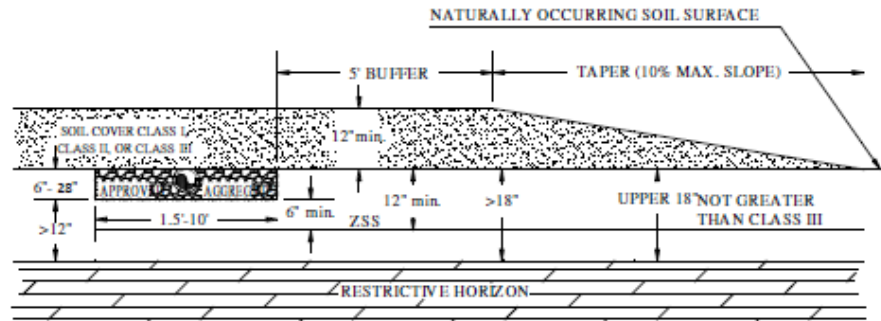


**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**ALTERNATIVE STANDARD  
ALTERNATIVE TRENCH WIDTH & DEPTH SYSTEMS**

PROGRAM 362 / CODE 290 / CODE 291 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

**FACTORS (F) FOR MAINTAINING EQUIVALENT INFILTRATIVE SURFACE AREA**

TRENCH WIDTH (ft.)	AGGREGATE DEPTH (in.)					
	6" *	9" **	14"	20"	24"	28"
1.5'	2.39	1.94	USE LTAR STANDARD	1.10	0.97	0.87
2.0'	1.99	1.66	USE LTAR STANDARD	1.00	0.89	0.80
2.5'	1.71	1.46	USE LTAR STANDARD	0.91	0.82	0.75
3.0'	1.50	1.30	USE LTAR STANDARD	0.84	0.76	0.70 <small>see system 360/380</small>
4.0'	1.20	1.06	0.84	0.73	0.67	0.62
5.0'	1.00	0.89	0.73	0.64	0.59	0.55
6.0'	0.85	0.78	0.64	0.57	0.53	0.50
7.0'	0.74	0.68	0.57	0.52	0.49	0.46
8.0'	0.66	0.61	0.52	0.47	0.45	0.42
9.0'	0.59	0.55	0.47	0.43	0.41	0.39
10.0'	0.54	0.51	0.43	0.40	0.38	0.36

Where, 5.33 sqft/ft = total infiltrative surface area per linear foot of conventional type trench (36in. wide, 14in. deep)

$$F = \frac{5.33 \text{ sqft. / ft}}{2 (\text{SwD} / 12) + \text{TW}}$$

\* Factors (F) reflect 12% increase  
\*\* Factors (F) reflect 9% increase  
(See notes in text)

SwD = Side Wall Depth (in)  
TW = Trench Width (ft.)

Rev. 03/09/18

~~410 APPENDIX J SYSTEM STANDARD 370/371 SHALLOW PLACEMENT WITH FILL CAP FOR SITES WITH SHALLOW CLASS IV SOIL~~ **Appendix L – System Standard 370/371 – Shallow Placement with Fill Cap for Sites with Shallow Class IV Soil**

~~410.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1) (a)~~ There must not be a zone of saturation (ZOS) within twelve (12) inches of the naturally occurring soil surface.

~~(2) (b)~~ The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ This system must not be utilized on sites that require serial distribution. Level installations on slightly sloping sites can be considered if it can be demonstrated that the entire installation (i.e., side wall to side wall and end to end) will meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

~~(4) (c)~~ No part of this system can be installed within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of environmentally sensitive waters.

~~(5) (d)~~ This system may be considered for installation on contiguous lots in new subdivisions approved after the effective date of this standard provided a setback of at least seventy-five (75) feet is maintained between the system and all adjacent property lines. The seventy-five (75) foot setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface.

~~(6) (e)~~ This system cannot be considered for facilities with peak sewage flow rates in excess of four hundred eighty (480) ~~gallons per day~~ gpd. In addition, this system shall not be considered for facilities requiring grease traps.

~~(7) (f)~~ There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. ~~This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of R-61-56~~ this regulation.

~~(8) (g)~~ The ~~Long-Term Acceptance Rate~~ long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~410.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1) This system cannot utilize serial distribution.~~

~~(2) (a)~~ Effluent discharged to this system must receive a higher degree of treatment than that provided by a conventional septic tank (~~i.e., e.g.~~ two (2) compartment septic tank or two (2) septic tanks in series).

~~(3) (b)~~ Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(4) (c)~~ The required fill cap must extend at least five (5) feet beyond the limits of the wastewater infiltration trenches, and it must taper to the original soil surface at a slope not to exceed ten (10) percent

~~(see attached sketch).~~ -The required seventy-five (75) ~~feet~~foot property line setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface.

~~(5)~~ (d) The required fill material must be soil texture Class I, Class II<sub>1</sub> or Class III and be void of extraneous debris such as organic matter, building materials, etc.

~~(6)~~ (e) The depth of the fill cap shall provide a minimum of twelve (12) inches backfill above the top of the wastewater infiltration trench aggregate.

~~(7)~~ (f) The wastewater infiltration trench width shall be thirty-six (36) inches.

~~(8)~~ (g) All tree and brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

~~(9)~~ The following criteria shall be utilized in the selection and design of these systems:

<del>Depth to ZOS</del> <b>Depth to ZOS (Inches)</b>	<del>Depth to Class IV Soil</del> <b>Depth to Class IV Soil (Inches)</b>	<del>Amount of Imported Fill Cap/Aggregate Depth</del> <b>Amount of Imported Fill Cap/Aggregate Depth (Inches)</b>	<del>Extension Factor</del> <b>Extension Factor</b>
<del>12</del>	<del>18</del>	<del>12/6</del>	<del>1.5</del>
<del>13</del>	<del>17</del>	<del>12/6</del>	<del>1.5</del>
<del>14</del>	<del>16</del>	<del>12/6</del>	<del>1.5</del>
<del>15</del>	<del>15</del>	<del>12/9</del>	<del>1.3</del>
<del>16</del>	<del>14</del>	<del>12/9</del>	<del>1.3</del>
<del>17</del>	<del>13</del>	<del>12/9</del>	<del>1.3</del>
<del>18</del>	<del>12</del>	<del>12/9</del>	<del>1.3</del>
<del>19</del>	<del>11</del>	<del>12/9</del>	<del>1.3</del>
<del>20</del>	<del>10</del>	<del>12/9</del>	<del>1.3</del>

Note: refer to the design sketch (typical) for detail.

#### ~~410.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) The septic tank and fill cap area shall be backfilled and shaped to promote the runoff of surface water.

~~(2)~~ (b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the filled area to divert surface water away from the onsite wastewater system to a positive outfall. -The installation of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

~~(3)~~ (c) A barrier to preclude parking and vehicular traffic over the system area may be required.

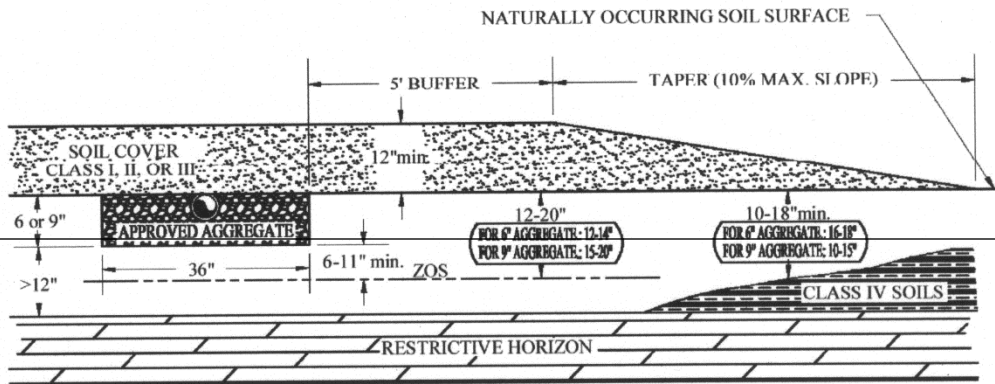
~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
SHALLOW PLACEMENT SYSTEM WITH FILL CAP FOR SITES WITH SHALLOW CLASS IV SOILS  
PROGRAM 362 / CODE 370 / CODE 371 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



Depth to ZOS (in)	Depth to Class IV Soil (in)	Amount of Imported Fill Cap / Aggregate Depth (in)	Extension Factor
12	18	12 / 6	1.5
13	17	12 / 6	1.5
14	16	12 / 6	1.5
---	---	---	---
15	15	12 / 9	1.3
16	14	12 / 9	1.3
17	13	12 / 9	1.3
18	12	12 / 9	1.3
19	11	12 / 9	1.3
20	10	12 / 9	1.3

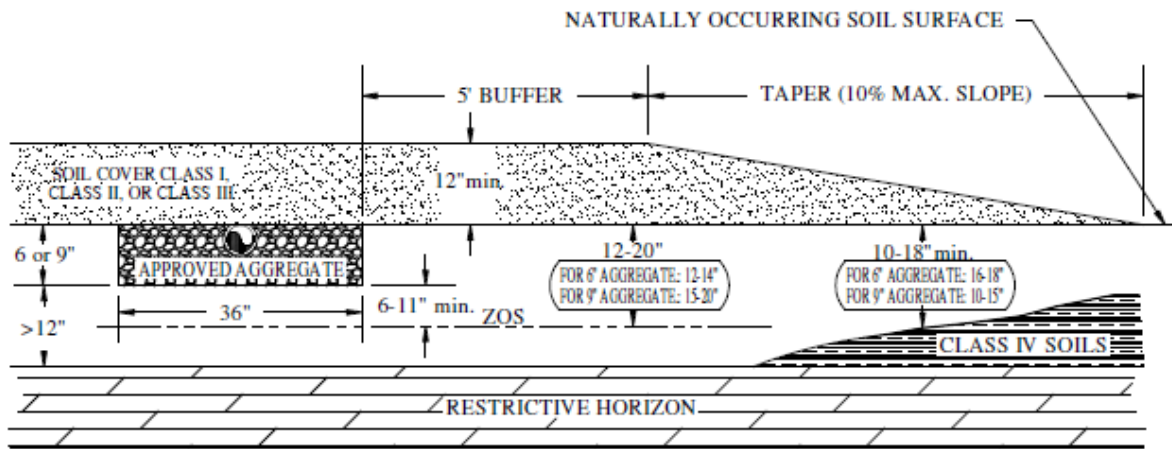
NOT TO SCALE

TLS REV. 03/14/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE STANDARD  
SHALLOW PLACEMENT SYSTEM WITH FILL CAP FOR SITES WITH SHALLOW CLASS IV SOILS  
PROGRAM 362 / CODE 370 / CODE 371 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

Depth to ZSS (in)	Depth to Class IV Soil (in)	Amount of Imported Fill Cap / Aggregate Depth (in)	Extension Factor
12	18	12 / 6	1.5
13	17	12 / 6	1.5
14	16	12 / 6	1.5
---	---	---	---
15	15	12 / 9	1.3
16	14	12 / 9	1.3
17	13	12 / 9	1.3
18	12	12 / 9	1.3
19	11	12 / 9	1.3
20	10	12 / 9	1.3

Rev. 03/09/18

~~411 APPENDIX K – System Standard 380/381 – DOUBLE AGGREGATE DEPTH WASTEWATER INFILTRATION TRENCHES~~  
**Appendix M – System Standard 380/381 – Double Aggregate Depth Wastewater Infiltration Trenches**

~~411.1 – SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

~~(1)~~ (a) Use of the double aggregate depth option must be restricted to soils that meet all textural limitations and required offsets to the zone of saturation (ZOS) and restrictive horizons.

~~(2)~~ (b) Systems incorporating the double aggregate depth option shall be loaded on the basis of the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(3)~~ (c) In order to maintain the same total absorptive area as that provided by conventional aggregate depth systems, the equivalent linear footage requirement for thirty-six (36) inch wide double aggregate depth trenches shall be determined by multiplying the conventional trench requirement by a factor of 0.7.

~~(4)~~ (d) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R-61-56~~ this regulation.

~~411.2 – INSTALLATION REQUIREMENTS~~ (2) Installation Requirements

~~(1)~~ (a) The wastewater infiltration trench aggregate shall be twenty-eight (28) inches in depth, and shall be placed so as to provide twenty (20) inches of aggregate below the pipe, five (5) inches beside the pipe, and three (3) inches above the pipe. -The aggregate shall be covered with at least nine (9) inches of backfill.

~~(2)~~ (b) The wastewater infiltration trench width shall be thirty-six (36) inches.

~~(3)~~ (c) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~411.3 – FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) Installation of drainage swales, ditches, curtain drains, and rain gutters may be required to divert or intercept water away from the onsite wastewater system location. -The septic tank and subsurface wastewater infiltration area shall be backfilled and shaped to promote surface water runoff.

~~(2)~~ (b) Following final landscaping, seeding or sodding may be required to prevent erosion.

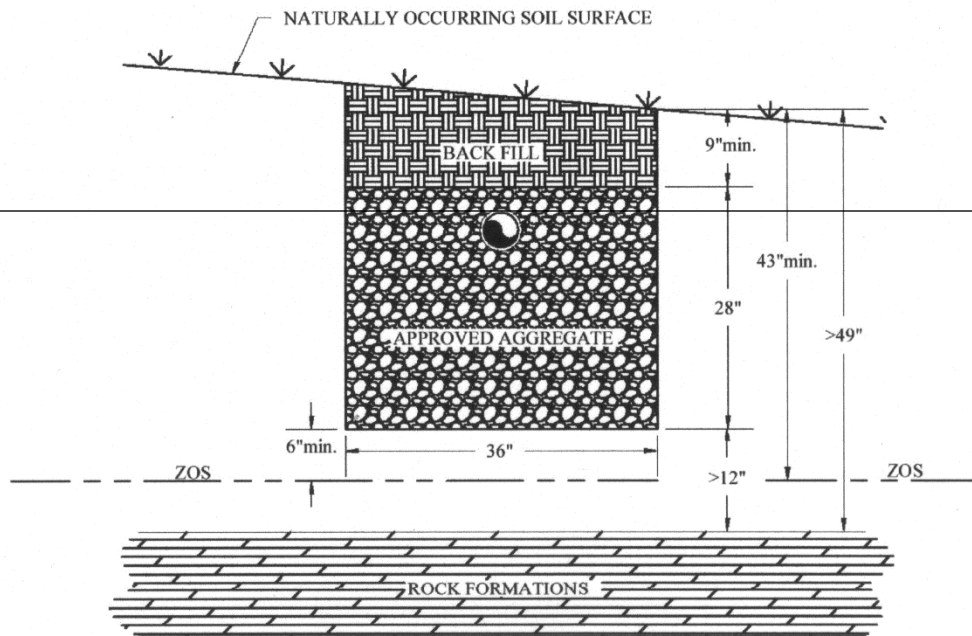
~~(3)~~ (c) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
DOUBLE AGGREGATE DEPTH SOIL ABSORPTION TRENCHES

PROGRAM 360 / CODE 380 / CODE 381 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



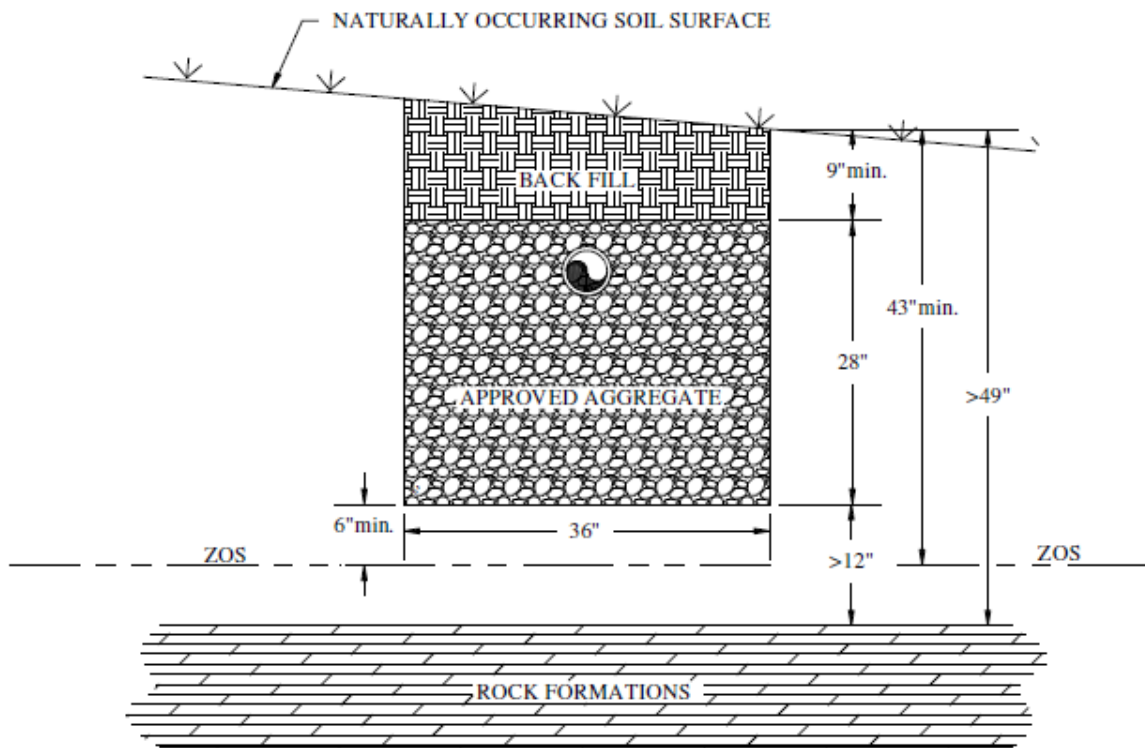
T18 REV. 03/16/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**ALTERNATIVE STANDARD  
DOUBLE AGGREGATE DEPTH SOIL ABSORPTION TRENCHES**

PROGRAM 360 / CODE 380 / CODE 381 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

Rev. 03/09/18



~~412 APPENDIX L System Standard 420/421 MOUNDED INFILTRATION SYSTEM~~ **Appendix N – System Standard 420/421 – Mounded Infiltration System**

~~412.1 SITE/PERMITTING REQUIREMENTS (1) Site/Permitting Requirements~~

~~(1)~~ (a) The texture in the upper twelve (12) inches of naturally occurring soil must be Class I or Class II.

~~(2)~~ (b) The soil texture in the permeable substratum must be no more limiting than Class II.

~~(3)~~ (c) There must not be a zone of saturation (ZOS) within six (6) inches of the naturally occurring soil surface.

~~(4)~~ (d) The depth to any restrictive horizon must be greater than twelve (12) inches below the bottom of the proposed wastewater infiltration trenches.

~~(5)~~ (e) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R. 61-56~~ this regulation.

~~(6)~~ Prior to permitting the onsite wastewater system, delineation of any affected jurisdictional wetlands may be required. Should any part of the proposed onsite wastewater system be located in jurisdictional wetlands, approval from the appropriate permitting agency(s) (i.e., US Army Corp. of Engineers, SCDHEC OCRM, etc.) shall be received, and proof of such provided to the Department.

~~(7)~~ (f) No part of this system can be installed within one hundred twenty-five (125) feet of the critical area line or tidal waters as determined by the Department; or within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters.

~~(8)~~ (g) This system cannot be considered for facilities with peak flow rates in excess of four hundred eighty (480) gallons per daygpd. In addition, this system shall not be considered for facilities requiring grease traps.

~~(9)~~ This system may not be installed on sites that flood.

~~(10)~~ (h) This system must not be utilized on sites that require serial distribution. Level installations on ~~slightly~~ sloping sites can be considered if it can be demonstrated that the entire installation (i.e., side wall to side wall and end to end) will meet the required textural limitations and the required offsets to the zone of saturation and restrictive horizons.

~~(11)~~ (i) The total linear footage of six (6) inch deep, thirty-six (36) inch wide wastewater infiltration trenches shall be increased by 100 percent over that which would be required for conventional trenches, as determined by the ~~Long Term Acceptance Rate~~ long-term acceptance rate of the permeable substratum.

~~(12)~~ (j) This system may be considered for installation on contiguous lots in new subdivisions approved after the effective date of this standard provided a setback of at least seventy-five (75) feet is maintained between the system and all adjacent property lines. The seventy-five (75) foot setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface.

~~412.2 INSTALLATION REQUIREMENTS (2) Installation Requirements~~

~~(1)~~ (a) Site Preparation

~~(a)~~ (i) The naturally occurring soil surface underlying the area of the wastewater infiltration trenches shall be thoroughly tilled and mixed with the imported medium sand to a depth of six (6) inches.

~~(b)~~ (ii) All tree and brush removal shall be done in a manner that minimizes the disturbance or loss of naturally occurring soil.

~~(2)~~ (b) Fill and System ~~(see ref. sketch)~~

~~(a)~~ (i) The fill cap and buffer shall be Class I, Class II, or Class III.

~~(b)~~ (ii) The depth of the fill cap shall provide a minimum of twelve (12) inches backfill above the top of the wastewater infiltration trench aggregate ~~(see ref. sketch)~~.

~~(c)~~ (iii) Where gravity flow from the septic tank to the subsurface wastewater infiltration area is utilized, the invert elevation of the septic tank outlet shall be installed at an elevation at least equal to or higher than the top of the aggregate in the highest wastewater infiltration trench(es).

~~(d)~~ (iv) The fill buffer shall be at least fifteen (15) feet in width.

~~(e)~~ (v) The fill taper shall be at least twenty (20) feet in width.

~~(f)~~ (vi) The required property line setback shall be measured from the point at which the fill cap taper intersects with the naturally occurring soil surface.

~~(g)~~ (vii) The total fill depth, excluding the taper zone, shall be at least eighteen (18) inches above the naturally occurring soil surface.

~~(h)~~ (viii) The wastewater infiltration trenches shall be installed in a Class I fill pad at least six (6) inches in depth, which extends five (5) feet beyond the trenches in all directions.

~~(i)~~ (ix) The wastewater infiltration trenches require a total aggregate depth of six (6) inches.

~~(j)~~ (x) The wastewater infiltration trench width shall be thirty-six (36) inches.

~~(k)~~ (xi) Infiltration trenches shall penetrate the permeable substratum and shall be at least two (2) feet in width containing USDA medium sand, washed concrete sand, or other material approved by the Department.

~~(l)~~ (xii) Effluent discharged to this system must receive a higher degree of treatment than that provided by a conventional septic tank (~~i.e., e.g.,~~ two (2) compartment septic tank or two (2) septic tanks in series).

~~412.3 FINAL LANDSCAPING AND DRAINAGE~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) The septic tank and fill cap area shall be backfilled and shaped to promote the runoff of surface water.

~~(2)~~ (b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the filled area to divert surface water away from the onsite wastewater system to a positive outfall. -The installation

of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

~~(3)~~ (c) A barrier to preclude parking and vehicular traffic over the system area may be required.

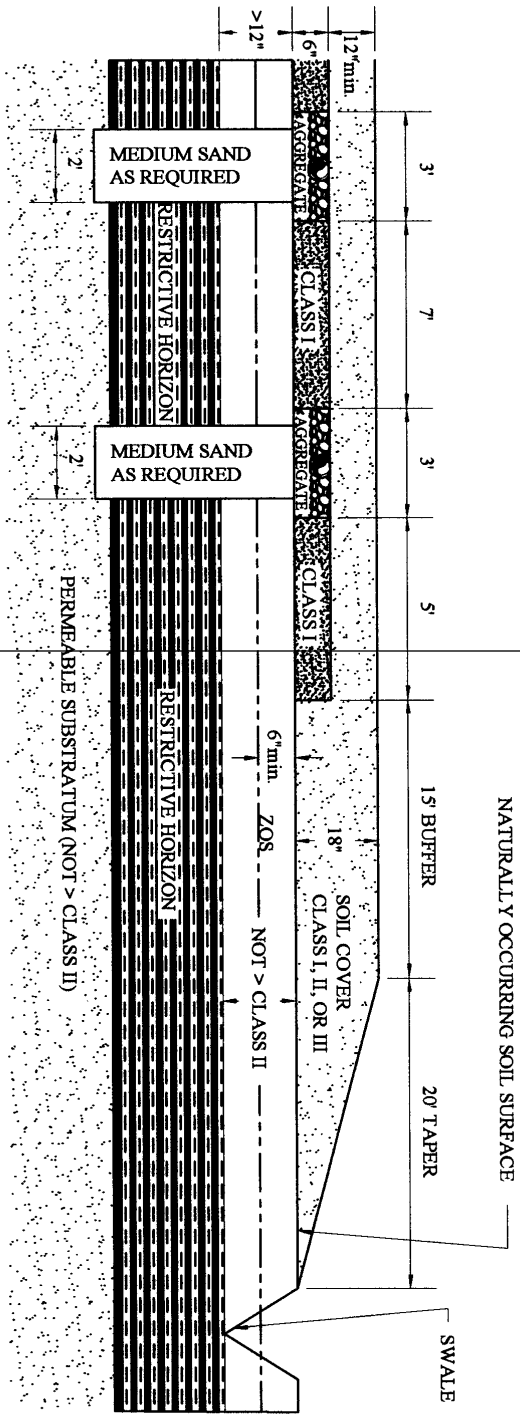
~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE STANDARD  
MOUNDED INFILTRATION SYSTEM FOR PERMEABLE SANDS UNDERLYING RESTRICTIVE HORIZONS  
PROGRAM 362 / CODE 420 / CODE 421 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

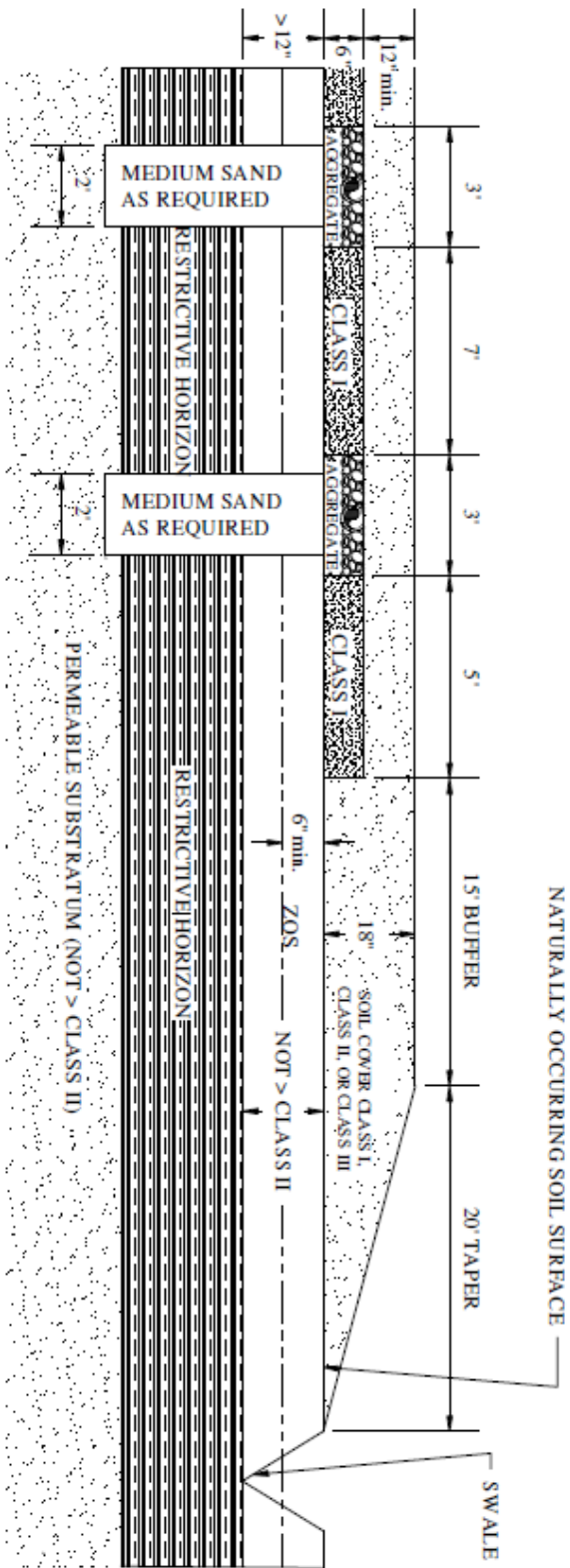
TLS REV. 6/2006

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE STANDARD  
MOUNDED INFILTRATION SYSTEM FOR PERMEABLE SANDS UNDERLYING RESTRICTIVE HORIZONS

PROGRAM 362 / CODE 420 / CODE 421 IF PUMPED

**TYPICAL DESIGN ILLUSTRATION**



NOT TO SCALE

Rev. 03/09/18

413 APPENDIX M System Standard 431 MOUNDED FILL SYSTEM Appendix O – System Standard 431 – Mounded Fill System

413.1 ~~SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

- ~~(1)~~ This system shall not be used on sites that are subject to flooding.
- ~~(2)~~ (a) The texture in the upper eighteen (18) inches of naturally occurring soil must be Class I or Class II.
- ~~(3)~~ (b) The absorption bed within the mound shall be sized on the ~~Long Term Acceptance Rate~~ long-term acceptance rate of the most limiting texture in the upper eighteen (18) inches of naturally occurring soil.
- ~~(4)~~ (c) The linear footage of the absorption bed shall be determined in accordance with Standard 270.
- ~~(5)~~ (d) The absorption bed width shall be a minimum of five (5) feet and a maximum of 10 feet.
- ~~(6)~~ (e) Mounded fill systems must not be placed on sites with a slope in excess of three (3) percent.
- ~~(7)~~ (f) No part of this system can be installed within one hundred twenty-five (125) feet of the critical area line or tidal waters as determined by the Department; or within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters. -Because of the long buffer, side slope, fill pad, and taper associated with this system, the one hundred twenty-five (125) foot setback shall be measured from the outer edge of the aggregate bed within the mound.
- ~~(8)~~ (g) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration; and shall meet the minimum soil and site conditions of ~~R-61-56~~ this regulation.
- ~~(9)~~ Prior to permitting the onsite wastewater system, delineation of any affected jurisdictional wetlands may be required. Should any part of the proposed onsite wastewater system be located in jurisdictional wetlands, approval from the appropriate permitting agency(s) (i.e., US Army Corp. of Engineers, SCDHEC Ocean and Coastal Resource Management, etc.) shall be received and proof of such provided to the Department.
- ~~(10)~~ (h) This system cannot be considered for facilities with peak flow rates in excess of four hundred eighty (480) ~~gallons per day~~ gpd. -In addition, this system shall not be considered for facilities requiring grease traps.
- ~~(11)~~ (i) Effluent discharged to this system must receive a higher degree of treatment than that provided by a conventional septic tank (~~i.e., e.g., two~~ (2) compartment septic tank or two (2) septic tanks in series).
- ~~(12)~~ (j) This system may be considered for installation on contiguous lots in new subdivisions approved after the effective date of this standard provided a setback of at least seventy-five (75) feet is maintained between the system and all adjacent property lines. -Because of the long buffer, side slope, fill pad, and taper associated with this system, the seventy-five (75) foot setback shall be measured from the outer edge of the aggregate bed within the mound.

413.2 ~~INSTALLATION REQUIREMENTS~~ (2) Installation Requirements

~~(1)~~ (a) Site Preparation

~~(a)~~ (i) If present within eighteen (18) inches of the naturally occurring soil surface, organic material and restrictive horizons must be removed from beneath the mound and replaced with USDA medium sand, washed concrete sand, or an equivalent material approved by the Department. -The replacement area must extend five (5) feet in all directions beyond the edges of the aggregate filled absorption bed.

~~(b)~~ (ii) The naturally occurring soil surface underlying the mound shall be thoroughly tilled and mixed with the imported mound fill material to a depth of six (6) inches.

~~(2)~~ (b) Mound/Absorption Bed Requirements

~~(a)~~ (i) Low Pressure Pipe Distribution (LPP) must be utilized to preclude localized hydraulic overloading of the imported fill material and to minimize the impact on the shallow zone of ~~seasonal~~ saturation.

(ii) Low Pressure Pipe Distribution (LPP) must be designed and installed in accordance with Department standards or equivalent designs. The size and layout of each distribution system will vary based on the size of the filter and the needed dosing.

(iii) Pump design shall be in accordance with Department standards.

~~(b)~~ (iv) There must be at least twenty-four (24) inches of medium sand placed between the naturally occurring soil surface and the bottom of the absorption bed. ~~Also, the~~ The bottom surface of the absorption bed must be placed at least twenty-four (24) inches above the zone of saturation.

~~(c)~~ (v) If the slope of the site in the proposed mound area is one (1) percent or less, then the mound shall be placed on a twelve (12) inch fill pad which must extend twenty (20) feet beyond the mound in all directions. If the slope of the site in the proposed mound area is greater than one (1) percent but less than or equal to three (3) percent, then the mound shall be placed on a twelve (12) inch deep fill pad which must extend twenty (20) feet beyond the mound area on the sides of the mound; forty (40) feet beyond the mound area on the down-slope side of the mound; with no fill pad required on the upslope side of the mound.

~~(d)~~ (vi) The mound and fill pad material shall be USDA medium sand, washed concrete sand, or other equivalent material approved by the Department.

~~(e)~~ (vii) The depth of the fill cap material above the absorption bed shall be nine (9) to fifteen (15) inches of soil texture Class II or Class III. -Sod may be substituted for four (4) inches of this portion of the fill cap material. ~~(see attached illustration)~~.

~~(f)~~ (viii) The depth of the fill cap material above the mound side-slope, the twelve (12) inch deep fill pad, and the taper shall be at least four (4) inches of soil texture Class II or Class III. -Sod may be substituted for this portion of the fill cap material. ~~(see attached illustration)~~.

~~(g)~~ (ix) A 1:2 maximum slope is required if the mound side-slope and taper are sodded.

~~(h)~~ (x) A 1:4 maximum slope is required if the mound side-slope and taper are mulched and seeded.

~~(3) Final Landscaping And Drainage Requirements~~ Final Landscaping and Drainage

(a) The septic tank and mound area shall be backfilled and shaped to promote the runoff of surface water.

(b) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the filled area to divert surface water away from the onsite wastewater system to a positive outfall. The installation of ditches, curtain drains, and rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

(c) A barrier to preclude parking and vehicular traffic over the system area may be required.

(d) Following final landscaping, seeding, or sodding may be required to prevent erosion.

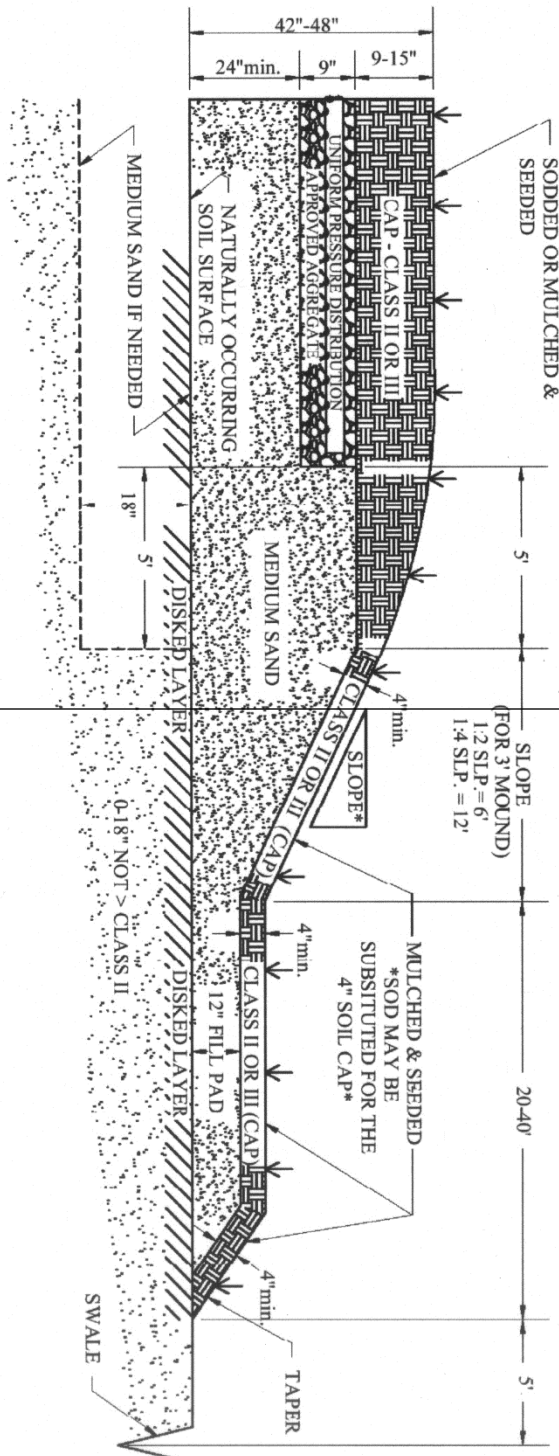
(e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.



**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
MOUNDED FILL SYSTEMS  
PROGRAM 362 / CODE 431

TYPICAL DESIGN ILLUSTRATION



SLOPE\* MAX. SIDE SLOPE SHALL BE 1:2 IF SODDED  
OR 1:4 IF MULCHED & SEEDDED

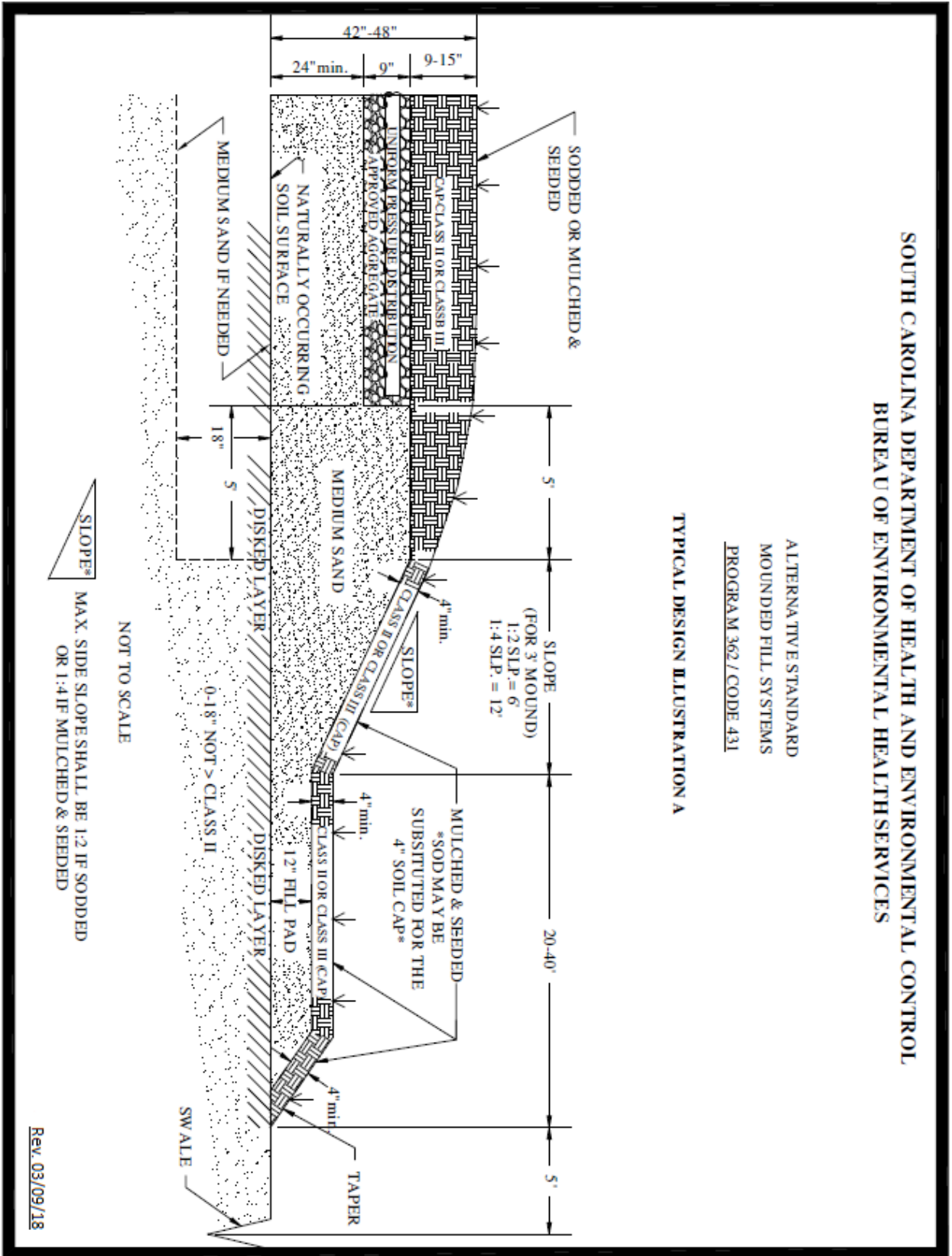
NOT TO SCALE

TLS REV. 03/16/97

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BUREAU OF ENVIRONMENTAL HEALTH SERVICES

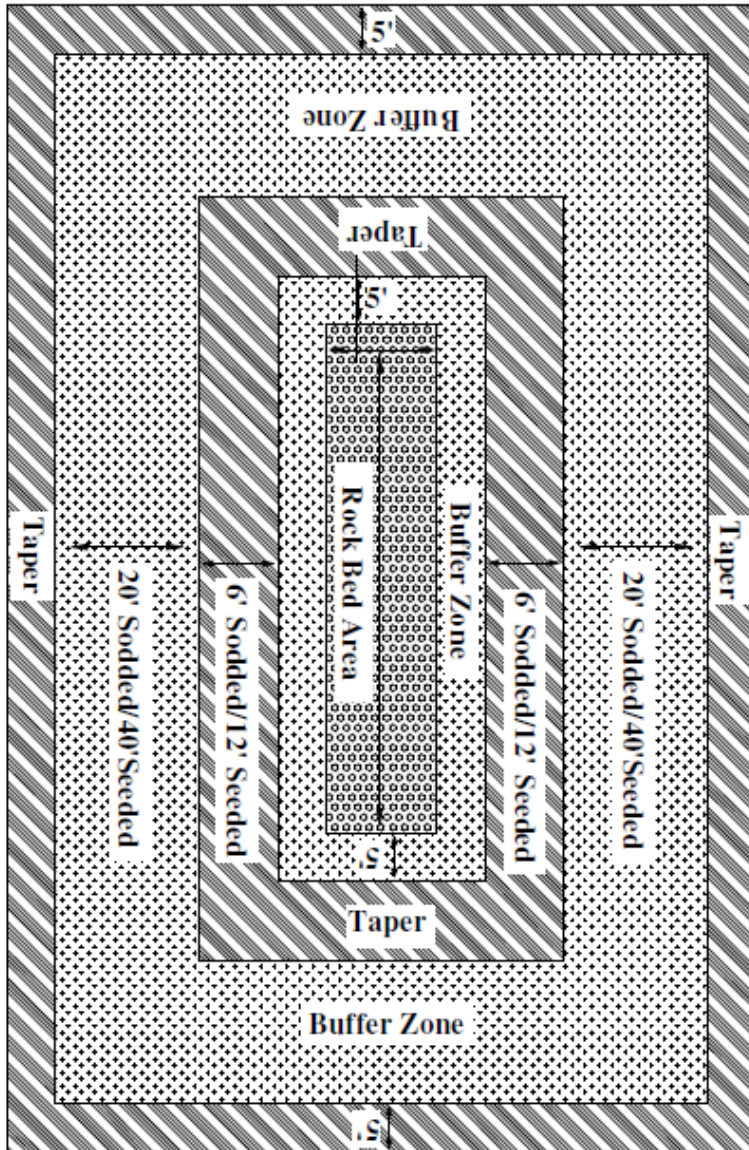
ALTERNATIVE STANDARD  
MOUNDED FILL SYSTEMS  
PROGRAM 362 / CODE 431

TYPICAL DESIGN ILLUSTRATION A



SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

ALTERNATIVE STANDARD  
MOUNDED FILL SYSTEMS  
PROGRAM 362 / CODE 431  
TYPICAL DESIGN ILLUSTRATION B

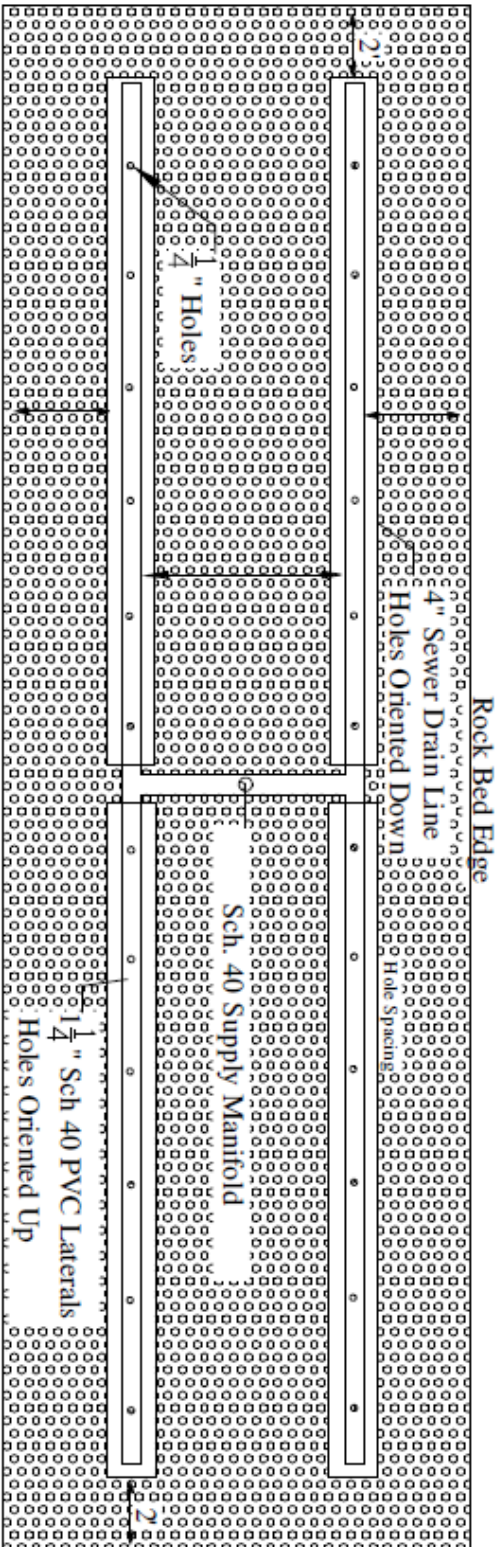


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SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

ALTERNATIVE STANDARD  
MOUND FILL SYSTEMS  
PROGRAM 362 / CODE 431  
TYPICAL DESIGN ILLUSTRATION C



\*Note: Cleanouts are required at the end of each lateral to extend to finishing grade with screw-on cleanout caps.

NOT TO SCALE

Rev. 03/09/18

~~414 APPENDIX N – SYSTEM STANDARD 601 – ELEVATED INFILTRATION SYSTEM~~ **Appendix P**  
**– System Standard 601 – Elevated Infiltration System**

~~414.1 – SITE/PERMITTING REQUIREMENTS~~ (1) Site/Permitting Requirements

~~(1)~~ (a) The texture in the upper eighteen (18) inches of naturally occurring soil must be Class I or Class II.

~~(2)~~ (b) The filter shall not be placed on slopes greater than three (3) percent.

~~(3)~~ (c) This system cannot be considered for facilities with peak flow rates in excess of four hundred eighty (480) ~~gallons per day~~ gpd. ~~In addition, this~~ This system shall not be considered for facilities requiring grease traps.

~~(4)~~ (d) There shall be a buffer of at least fifty (50) feet surrounding and separating the system from all adjacent property lines. This buffer shall be measured from the retaining wall.

~~(5)~~ (e) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. -This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R-61-56~~ this regulation.

~~(6)~~ This system shall not be placed on sites that flood.

~~(7)~~ (f) No part of this system can be installed within one hundred twenty-five (125) feet of the critical area line or tidal waters as determined by the Department; or within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters.

~~(8)~~ Prior to permitting the onsite wastewater system, delineation of any affected jurisdictional wetlands may be required. Should any part of the proposed onsite wastewater system be located in jurisdictional wetlands, approval from the appropriate permitting agency(s) (i.e., US Army Corp. of Engineers, SCDHEC Ocean and Coastal Resource Management, etc.) shall be received, and proof of such provided to the Department. The absorption bed shall be sized on the most limiting soil texture class in the upper eighteen (18) inches of naturally occurring soil.

~~(9)~~ (g) The total bottom area of the filter must be increased by fifty (50) percent above that required for conventional trenches.

~~(10)~~ (h) This system may be considered for installation on contiguous lots in new subdivisions approved after the effective date of this standard provided a setback of at least seventy-five (75) feet is maintained between the system and all adjacent property lines. The seventy-five (75) foot setback shall be measured from the point at which the retaining wall intersects the naturally occurring soil surface.

~~414.2 – INSTALLATION REQUIREMENTS~~ (2) Installation Requirements

~~(1)~~ (a) Site Preparation

~~(a)~~ (i) If present within eighteen (18) inches of the naturally occurring soil surface, organic material and restrictive horizons must be removed from beneath the filter and replaced with USDA medium sand, washed concrete sand, or an equivalent material approved by the Department.

~~(b)~~ (ii) The naturally occurring soil surface underlying the filter shall be thoroughly tilled and mixed with the imported filter material to a depth of six (6) inches.

~~(2)~~ (b) System Requirements

~~(a)~~ (i) The filter must be constructed to a height of at least thirty-six (36) inches above the original grade, with the sewage effluent passing through at least twenty-four (24) inches of filter material.

~~(b)~~ (ii) The filter material shall be USDA medium sand, washed concrete sand, or other material approved by the Department.

~~(c)~~ (iii) The filter retaining wall shall extend at least four (4) inches above the surface of the filter material and shall penetrate the naturally occurring soil surface at least four (4) inches.

~~(d)~~ (iv) The filter retaining wall shall be constructed in accordance with the accompanying design illustrations.

~~(e)~~ (v) Effluent discharged to this system must receive a higher degree of treatment than that provided by a conventional septic tank (~~i.e., e.g.,~~ two (2) compartment septic tank or two (2) septic tanks in series).

~~(f)~~ (vi) The top of the filter shall be capped with Class II or Class III soil, and shall slope from center to edges in order to promote surface runoff.

~~(3)~~ (c) Distribution Requirements

~~(a)~~ (i) Low Pressure Pipe Distribution (LPP) must be utilized to preclude localized hydraulic overloading of the imported fill material and to minimize the impact on the shallow zone of saturation.

(ii) Low Pressure Pipe Distribution (LPP) must be designed and installed in accordance with Department standards or equivalent designs. The size and layout of each distribution system will vary based on the size of the filter and the needed dosing.

~~(b)~~ (iii) Pump design shall be in accordance with Department standards.

~~414.3 FINAL LANDSCAPING AND DRAINAGE REQUIREMENTS~~ (3) Final Landscaping and Drainage

~~(1)~~ (a) Fill material shall be placed around the outside of the filter to a depth of one (1) foot, and shall slope to original grade at a point five (5) feet from the retaining wall.

~~(2)~~ (b) The septic tank and filter area shall be backfilled and shaped to promote the runoff of surface water.

~~(3)~~ (c) Where natural surface drainage does not exist, a swale shall be constructed adjacent to the filter to divert surface water away from the onsite wastewater system to a positive outfall. -The installation of ditches, curtain drains, and/or rain gutters may be required to intercept and divert water away from the onsite wastewater system location.

~~(4)~~ (d) Following final landscaping, seeding or sodding may be required to prevent erosion.

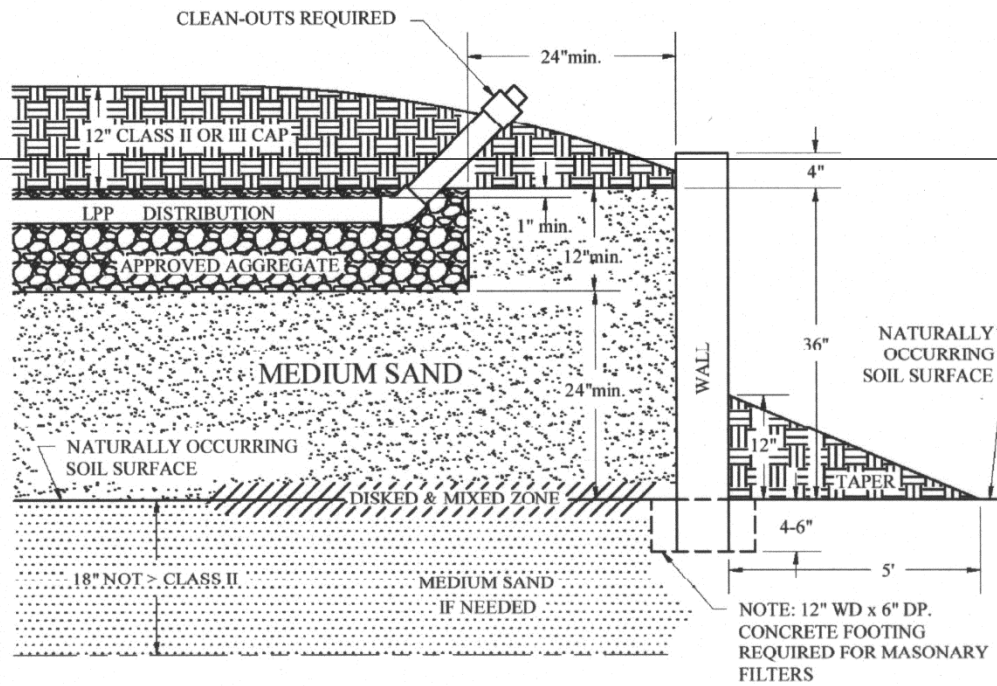
~~(5)~~ (e) Final approval shall be withheld until all landscaping and drainage improvements have been satisfactorily completed.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

TYPICAL DESIGN ILLUSTRATION



**SECTION A-A**

NOT TO SCALE

714 REV. 03/16/07

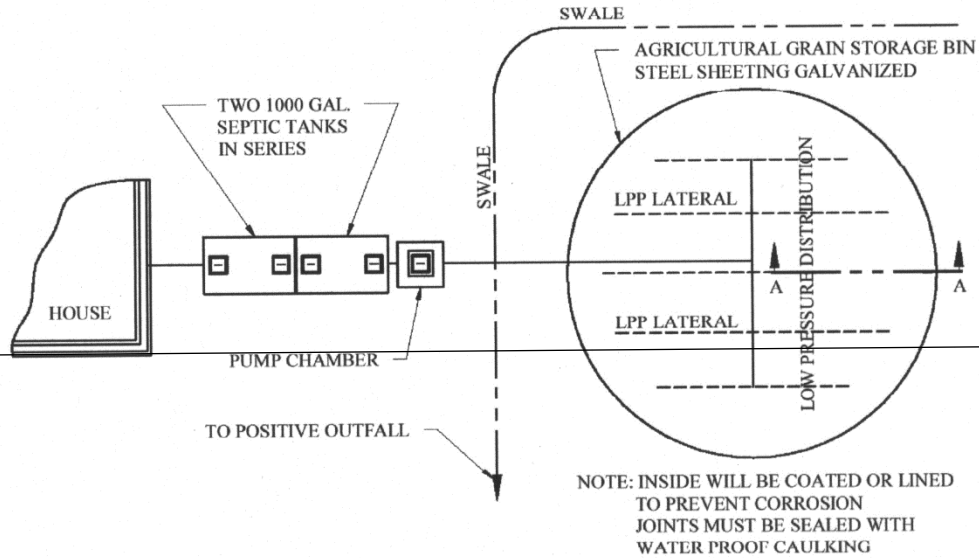


**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
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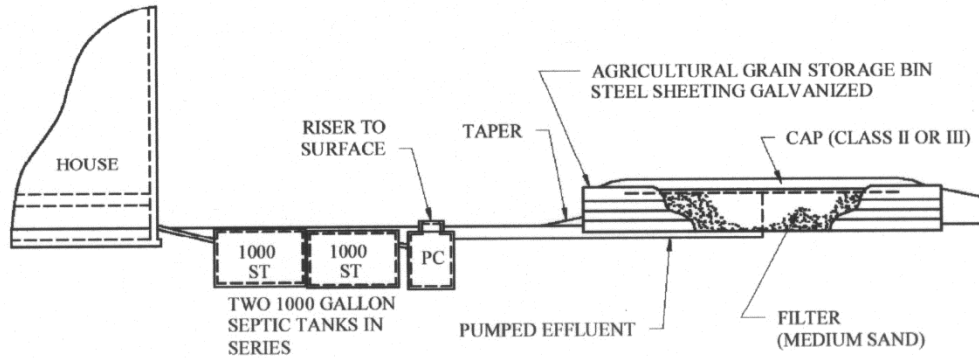
ALTERNATIVE SYSTEM  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION  
CIRCULAR STEEL FILTER DETAILS**



**PLAN VIEW**  
NOT TO SCALE



**ELEVATION**  
NOT TO SCALE

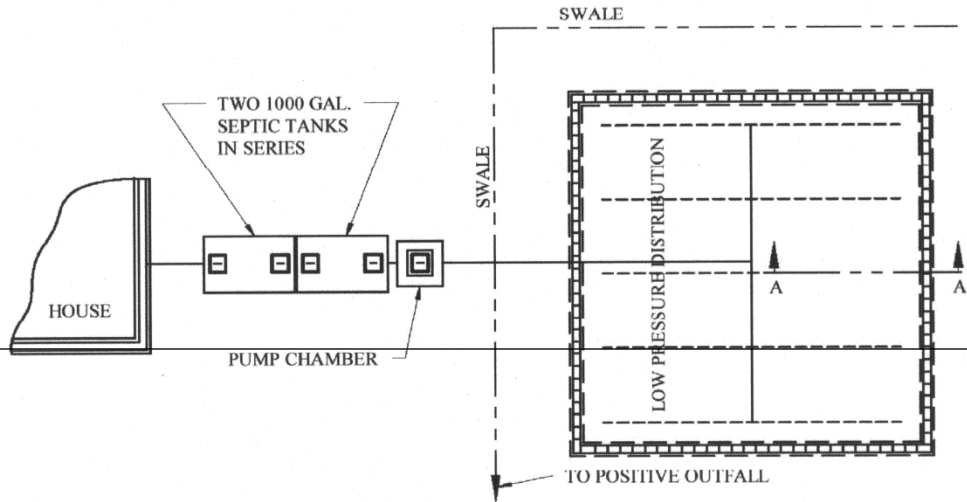
TLS REV. 05/14/07

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

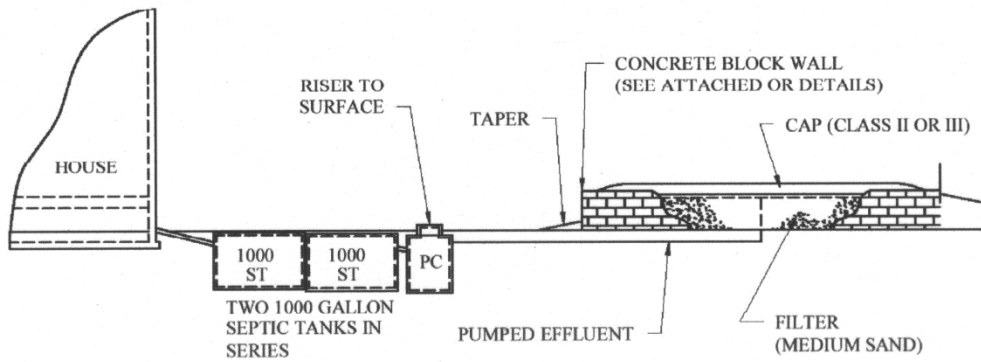
ALTERNATIVE SYSTEM  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION  
SQUARE CONCRETE & BLOCK FILTER DETAILS**



**PLAN VIEW**  
NOT TO SCALE



**ELEVATION**  
NOT TO SCALE

TLS REV. 05/16/07

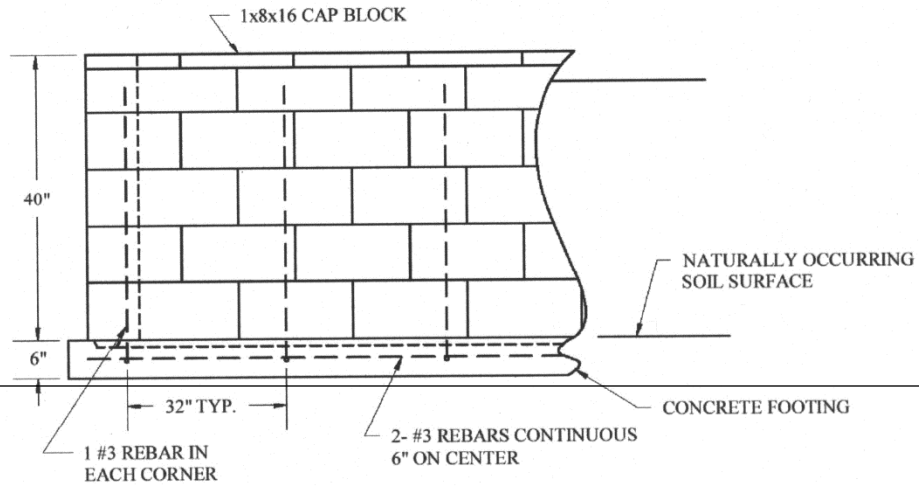
**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

ALTERNATIVE SYSTEM  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

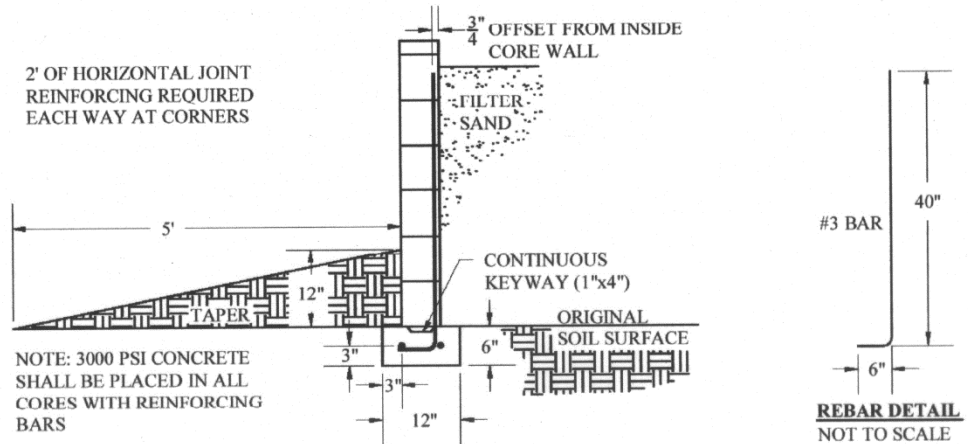
**TYPICAL DESIGN ILLUSTRATION**

SQUARE CONCRETE & BLOCK FILTER - WALL & FOUNDATION DETAIL



**WALL & FOUNDATION DETAIL**

NOT TO SCALE



**WALL SECTION DETAIL**

NOT TO SCALE

NOTE: 14 DAY MINIMUM CURE TIME FOR WALL & FOUNDATION REQUIRED BEFORE INSTALLING FILTER SAND

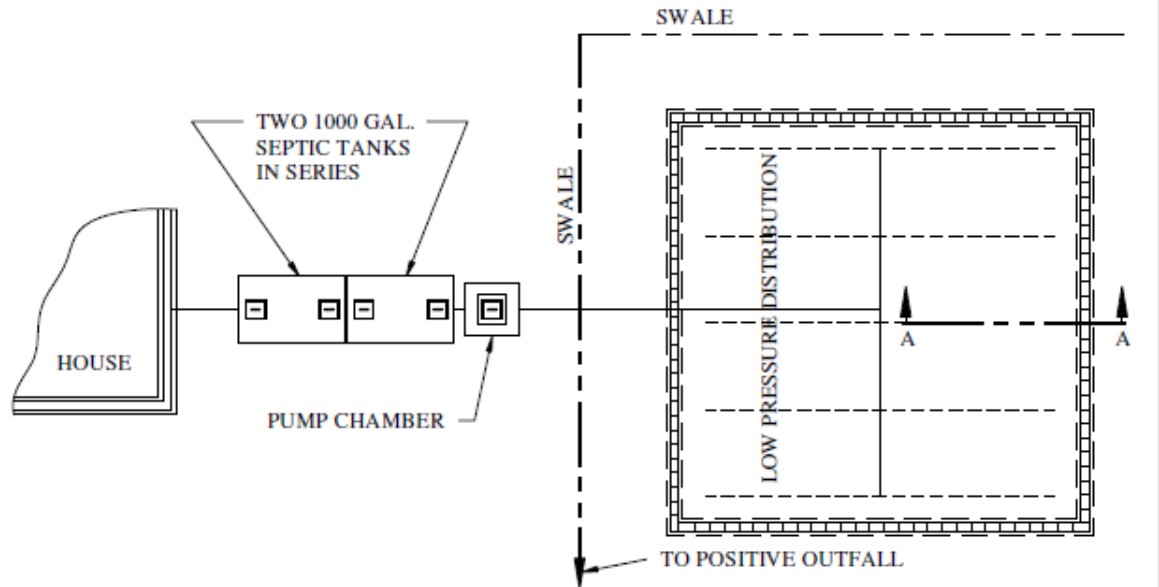
115 REV. 03-16-07

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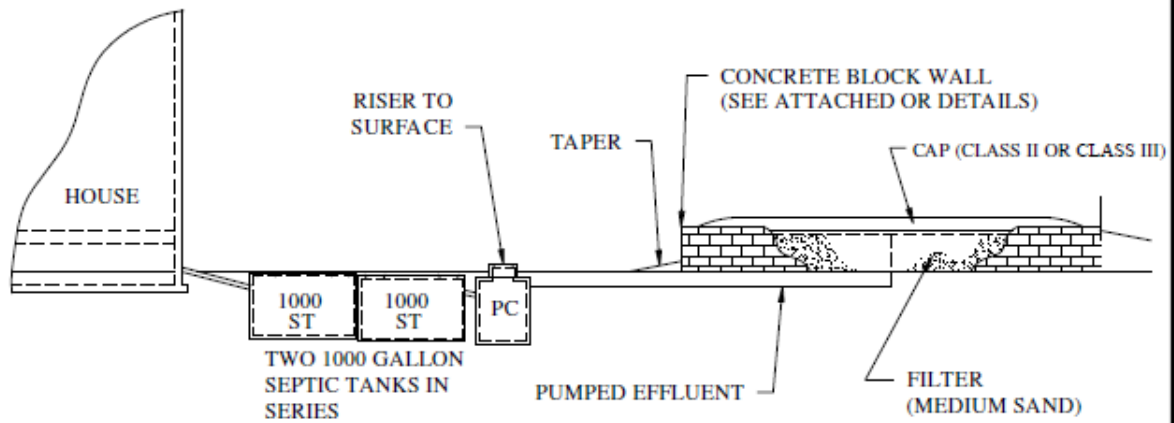
ALTERNATIVE STANDARD  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION - FIGURE A  
SQUARE CONCRETE & BLOCK FILTER DETAILS**



**PLAN VIEW**  
NOT TO SCALE



**ELEVATION**  
NOT TO SCALE

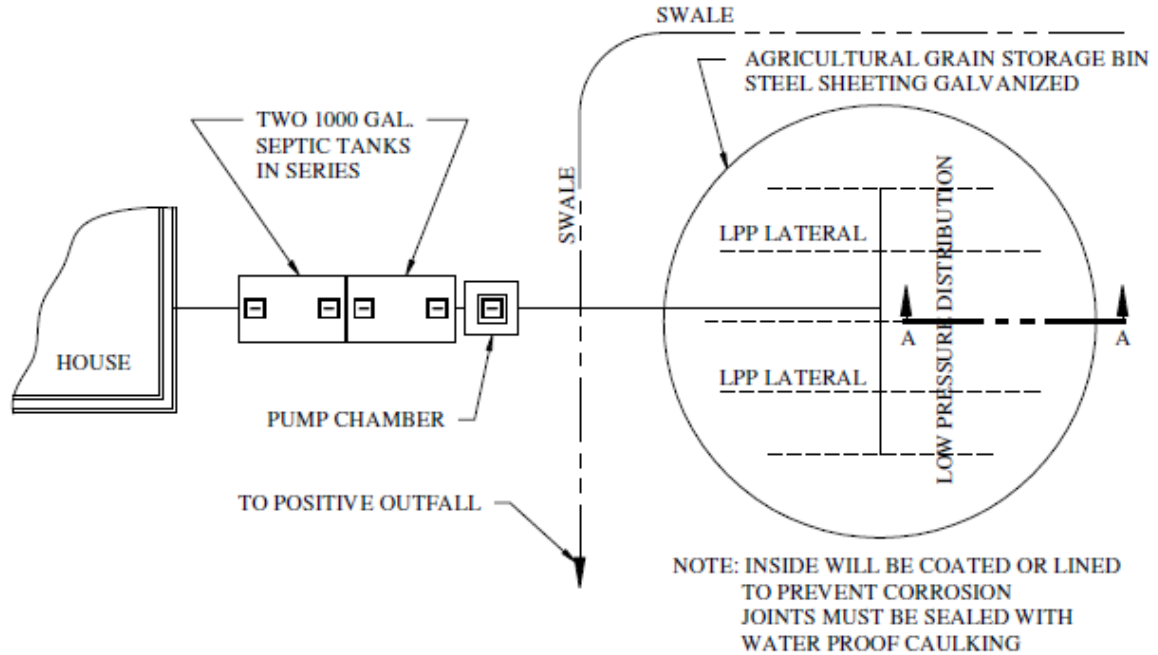
Rev. 03/09/18

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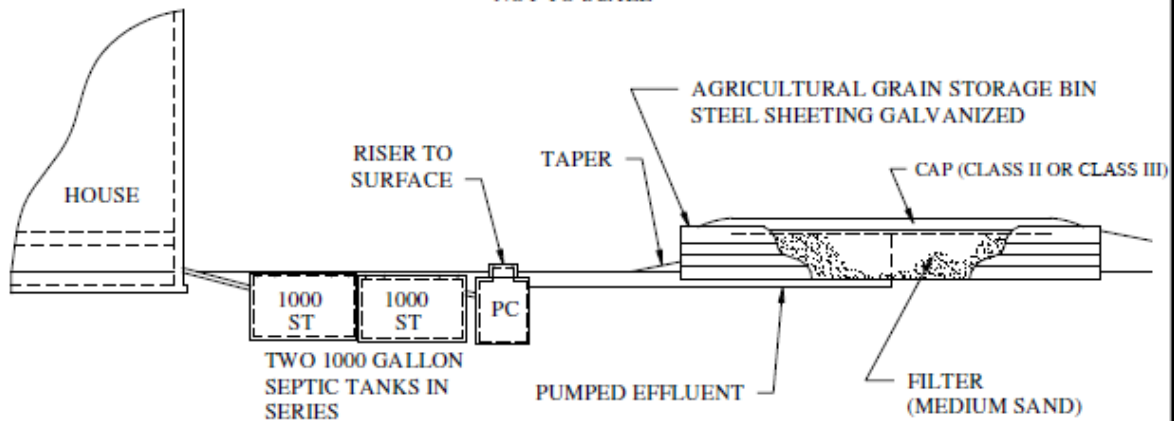
ALTERNATIVE STANDARD  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION - FIGURE A**  
CIRCULAR STEEL FILTER DETAILS



**PLAN VIEW**  
NOT TO SCALE



**ELEVATION**  
NOT TO SCALE

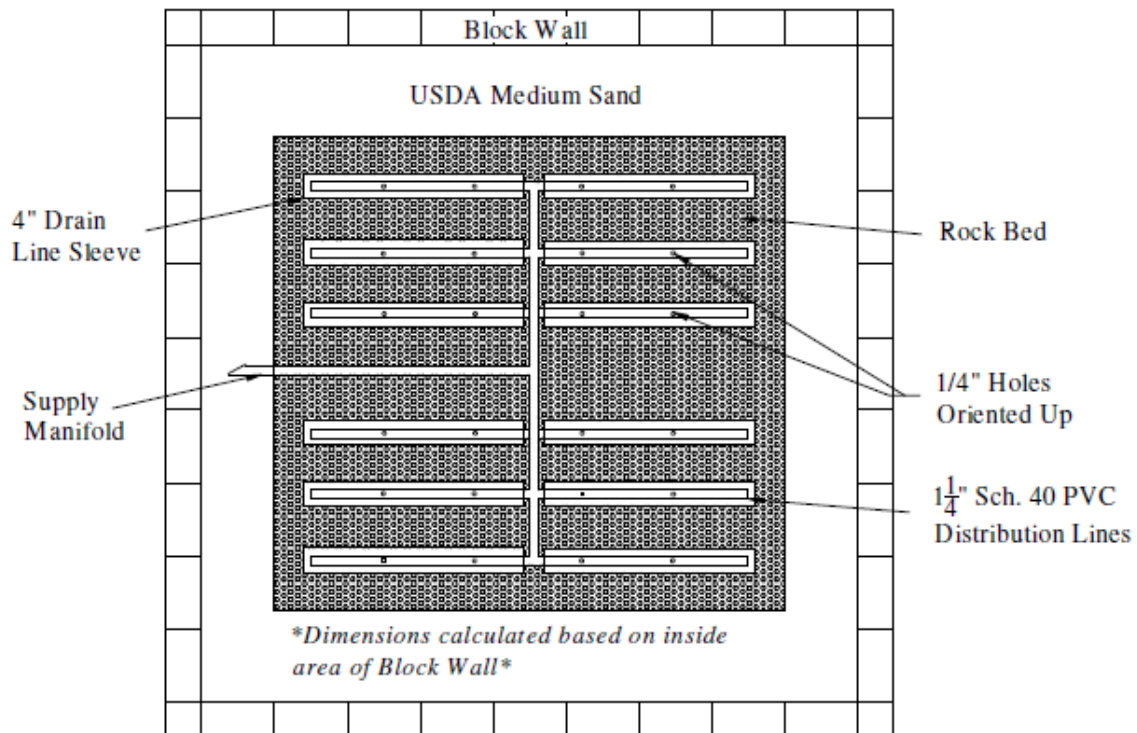
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ALTERNATIVE STANDARD  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION - FIGURE B**  
**SQUARE CONCRETE & BLOCK FILTER DETAILS**



EACH LATERAL TO BE INSTALLED IN A ROCK BED

ALL LATERAL PRESSURE LINES ARE REQUIRED TO HAVE ELBOWS AT THE ENDS OF EACH LINE AND EXTEND TO FINISHING GRADE WITH SCREW-ON CLEANOUT CAPS

ALL HOLES ARE TO BE EQUALLY SPACED FROM ENDS OF EACH LINE AND BETWEEN EACH HOLE

**ELEVATION**  
NOT TO SCALE

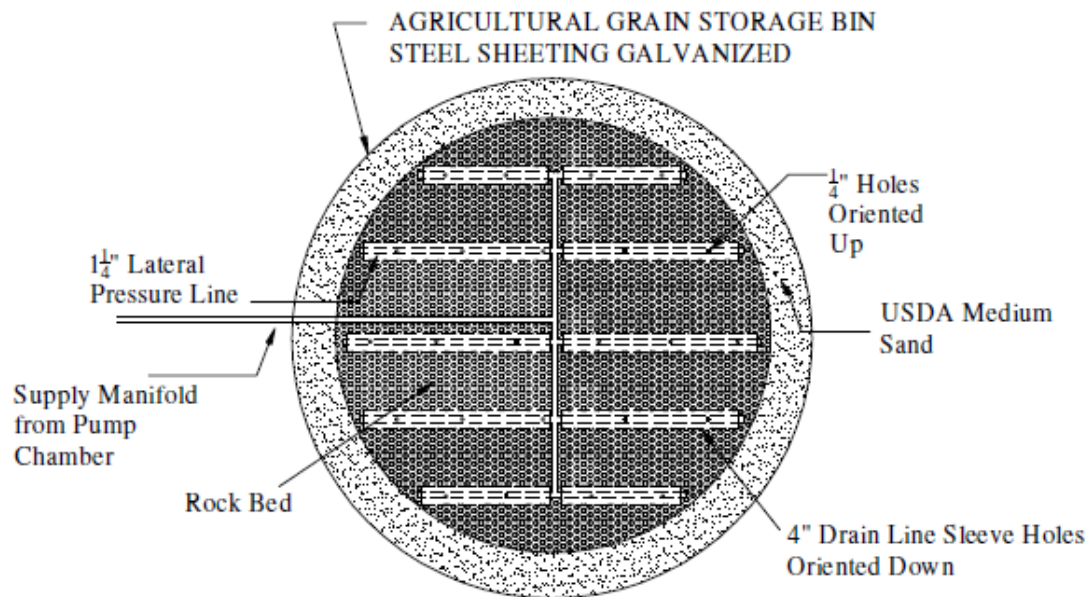
Rev. 03/09/18

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BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

ALTERNATIVE STANDARD  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

**TYPICAL DESIGN ILLUSTRATION - FIGURE B  
CIRCULAR STEEL FILTER DETAILS**



EACH LATERAL TO BE INSTALLED IN A ROCK BED

ALL LATERAL PRESSURE LINES ARE REQUIRED TO HAVE ELBOWS AT THE ENDS OF EACH LINE AND EXTEND TO FINISHING GRADE WITH SCREW-ON CLEANOUT CAPS

ALL HOLES ARE TO BE EQUALLY SPACED FROM ENDS OF EACH LINE AND BETWEEN EACH HOLE

**ELEVATION**  
NOT TO SCALE

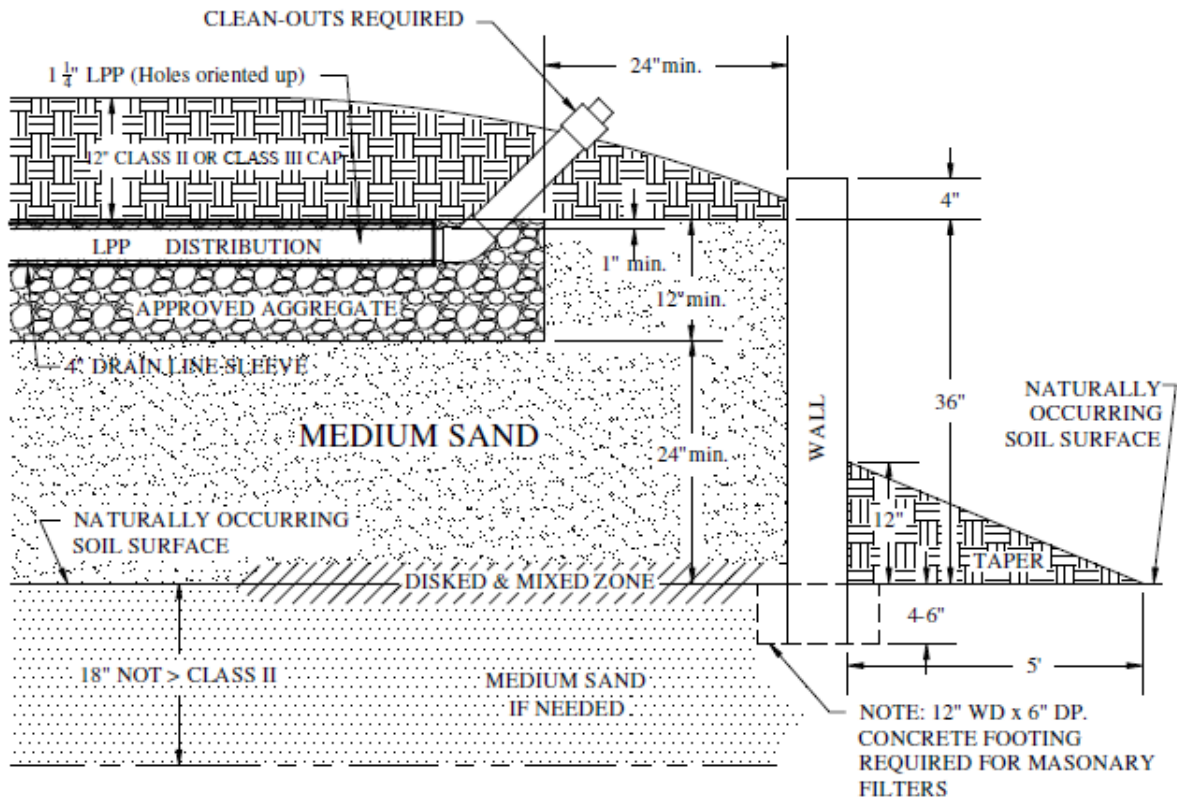
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SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

ALTERNATIVE STANDARD  
ELEVATED INFILTRATION SYSTEM

PROGRAM 362 / CODE 601

TYPICAL DESIGN ILLUSTRATION -FIGURE C



NOT TO SCALE

Rev. 03/09/18



~~415 APPENDIX O – SYSTEM STANDARD 610 – SPECIALIZED ONSITE WASTEWATER SYSTEM DESIGNS (LESS THAN 1500 GPD)~~  
**Appendix Q – System Standard 610 – Specialized Onsite Wastewater System Designs (less than 1500 gpd)**

(1) Site/Permitting Requirements

~~(1)~~ (a) This Standard shall not apply to the following:

~~(a)~~ (i) Projects where two (2) or more pieces of deeded property will share a common system.

~~(b)~~ (ii) Residential or commercial projects where the individual or combined peak sewage flow is estimated to be in excess of fifteen hundred (1500) gpd.

~~(c)~~ (iii) Projects that discharge wastes containing high amounts of fats, grease and oil, including restaurants and other food service facilities, unless the system manufacturer certifies that the proposed system is designed to treat such high strength wastes.

~~(d)~~ (iv) Industrial process wastewater.

~~(2)~~ (b) A site may be considered for a specialized onsite wastewater system design if written documentation provided by a Registered Professional Engineer licensed in ~~the State of South Carolina~~, including soil studies performed by a Professional Soil Classifier licensed in ~~the State of South Carolina~~, indicates that the proposed system will function satisfactorily and in accordance with all requirements of ~~R.61-56~~this regulation. Such substantiating documentation must include the following:

~~(a)~~ (i) A Soils Report from a Professional Soil Classifier licensed in ~~the State of South Carolina~~ including detailed soil profile descriptions and Soil Series classification(s) utilizing methods and terminology specified in the Field Book for Describing and Sampling Soils; depth to the zone of saturation utilizing methods and terminology outlined in Redoximorphic Features for Identifying Aquic Conditions, and other appropriate principles specified in Soil Taxonomy; the depth to restrictive horizons; and a description of topography and other pertinent land features.

~~(b)~~ Delineation of any affected jurisdictional wetlands, if applicable. Should any part of the proposed onsite wastewater system be located in jurisdictional wetlands, approval from the appropriate permitting agency(s) (i.e., US Army Corps of Engineers, SCDHEC Ocean and Coastal Resource Management) shall accompany the application for a specialized onsite wastewater system design.

(ii) For drain field and replacement areas with a less than fifteen (15) inch zone of saturation, no part of a specialized onsite wastewater system may be installed within one hundred twenty-five (125) feet of the critical area line or tidal waters as determined by the Department or within one hundred twenty-five (125) feet of the ordinary high water elevation within the banks of non-tidal, environmentally sensitive waters.

~~(c)~~ (iii) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of ~~R.61-56~~this regulation.

~~(d)~~ (iv) A plan that has been sealed, signed and dated by a Registered Professional Engineer licensed in ~~the State of South Carolina~~ certifying that the proposed onsite wastewater system has been designed in accordance with the requirements of ~~R.61-56~~this regulation and will function satisfactorily. The plan should

also show an area equivalent to at least fifty (50) percent in size of the original system held in reserve for system repair.

~~(e)~~ (v) The manufacturer's recommendations for operation and maintenance of the system, and the consulting Registered Professional eEngineer's management plan to meet this. For systems that have mechanical components and/or require a higher degree of maintenance to ensure the proper treatment and disposal of Domestic Wastewater, an operation and maintenance (O&M) plan must be developed by the designing Registered Professional Engineer to be given to the party who is ultimately responsible for the operation of the system. O&M plans must be recorded along with the property deed and must run with the land.

~~(3)~~ (c) Any ~~Permit to Construct~~ permit to construct that is issued pursuant to this standard shall be based upon the consulting Registered Professional eEngineer's design, certification, and other supporting documentation provided by the Professional Soil Classifier.

~~(4)~~ (d) The consulting Registered Professional eEngineer shall be responsible for supervising construction of the system and providing the Department with a certified ~~"as-built"~~ as-built plan of the actual installation containing all details required by the Department. The certified as-built plan must be submitted to the Department within two (2) business days of completing the system installation. If the construction schedule for a specialized system installation is more than forty-eight (48) hours, the Department must be notified in advance of the beginning of construction. Any Final Approval that is released pursuant to this standard shall be based upon this engineering certification.

#### ~~416 APPENDIX P – Curtain Drain Standard~~ **Appendix R – Curtain Drain Standard**

##### ~~416.1 Minimum Construction Requirements~~ (1) Minimum Construction Requirements

~~(1)~~ (a) Only pipe having received written approval from the Department may be utilized in curtain drains. This approval shall be based upon the pipe meeting all applicable ASTM standards.

~~(2)~~ (b) The aggregate used in curtain drains shall be a material approved by the Department, ~~and shall range in size from one half (1/2) inch to two and one half (2 1/2) inches. Fines are prohibited.~~

~~(3)~~ (c) The curtain drain trench utilizing tire chips or gravel or a similar type of Department approved product shall be at least six (6) inches wide.

~~(4)~~ (d) The curtain drain shall be placed ten (10) feet upslope and twenty-five (25) feet down-slope of a subsurface wastewater infiltration area or repair area. ~~Where the aggregate portion of the curtain is installed at the same or lower (down-slope) elevation relative to an adjacent subsurface wastewater infiltration area or repair area, the aggregate portion of the curtain must be a minimum of twenty-five (25) feet from the adjacent the subsurface wastewater infiltration area or repair area.~~

~~(5)~~ (e) The trench bottom shall have a uniform slope to the discharge point. ~~A minimum one (1) percent fall (12 inches per 100 feet) shall be utilized. Trench excavation with a ditch witch is permissible provided the trench bottom has a uniform down-slope gradient.~~

~~(6)~~ (f) The solid discharge (non-aggregate) line shall be fifteen (15) feet from adjacent subsurface wastewater infiltration area or repair area.

~~(7)~~ (g) The down-slope side of the trench toward the subsurface wastewater infiltration area shall have a minimum six (6) mil poly or an equivalent ~~strong~~strength, treated impervious material draped from the trench surface to the trench bottom to prevent groundwater from bridging the curtain drain.

~~(8)~~ (h) Agricultural drainpipe (slitted) with a minimum diameter of four (4) inches shall be placed along the trench bottom in the aggregate portion. Perforated pipe is acceptable, provided the perforations are installed facing either sideways or upward.

~~(9)~~ (i) There shall be at least two (2) inches of aggregate beneath the drainpipe.

~~(10)~~ (j) The aggregate shall be brought to at least six (6) inches from the ground surface.

~~(11)~~ (k) The aggregate shall be covered with a strong, untreated pervious material to prevent infiltration of back fill material.

~~(12)~~ (l) Solid drainpipe with a minimum diameter of four (4) inches shall be placed along the trench bottom from the aggregate to the discharge point.

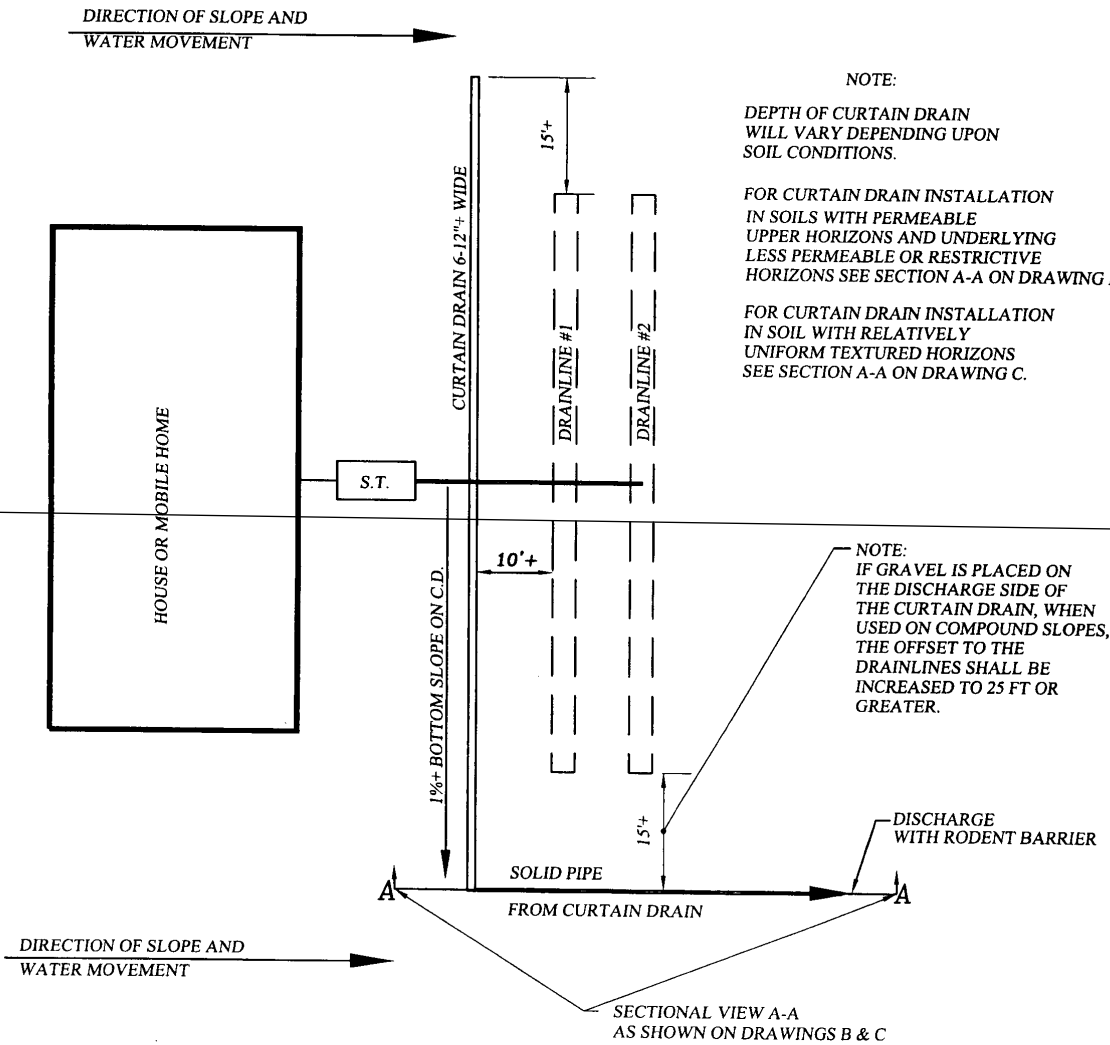
~~(13)~~ (m) The curtain drain must discharge to the ground surface past the last wastewater infiltration trench line.

~~(14)~~ (n) Rodent barriers on discharge pipe outlet(s) are required.

~~(15)~~ (o) If the curtain drain's trench bottom depth exceeds thirty (30) inches, it shall be inspected prior to the aggregate being installed to ensure proper trench depth and grade. It is acceptable to place the pipe and aggregate in the trench prior to the final inspection when a probe rod inspection port can be used to accurately measure trench bottom depth.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

**CURTAIN DRAIN STANDARD  
TYPICAL DESIGN SKETCH**



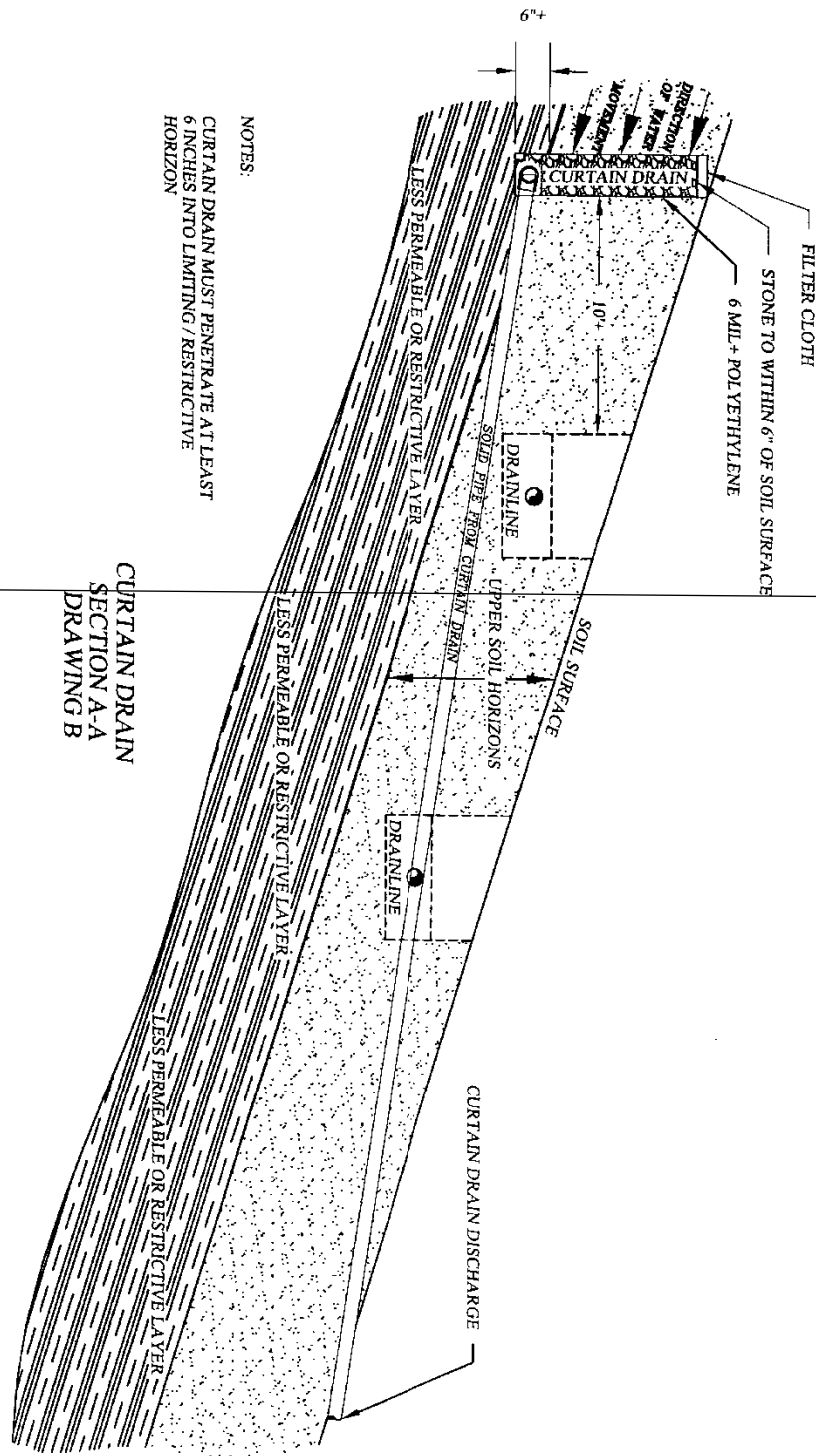
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T.L.S.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

**CURTAIN DRAIN STANDARDS**

CURTAIN DRAIN INSTALLATION IN SOILS WITH RESTRICTIVE OR LESS PERMEABLE HORIZONS BELOW THE DRAINFIELD  
TYPICAL DESIGN SKETCH



NOTES:  
CURTAIN DRAIN MUST PENETRATE AT LEAST  
6 INCHES INTO LIMITING / RESTRICTIVE  
HORIZON

CURTAIN DRAIN  
SECTION A-A  
DRAWING B

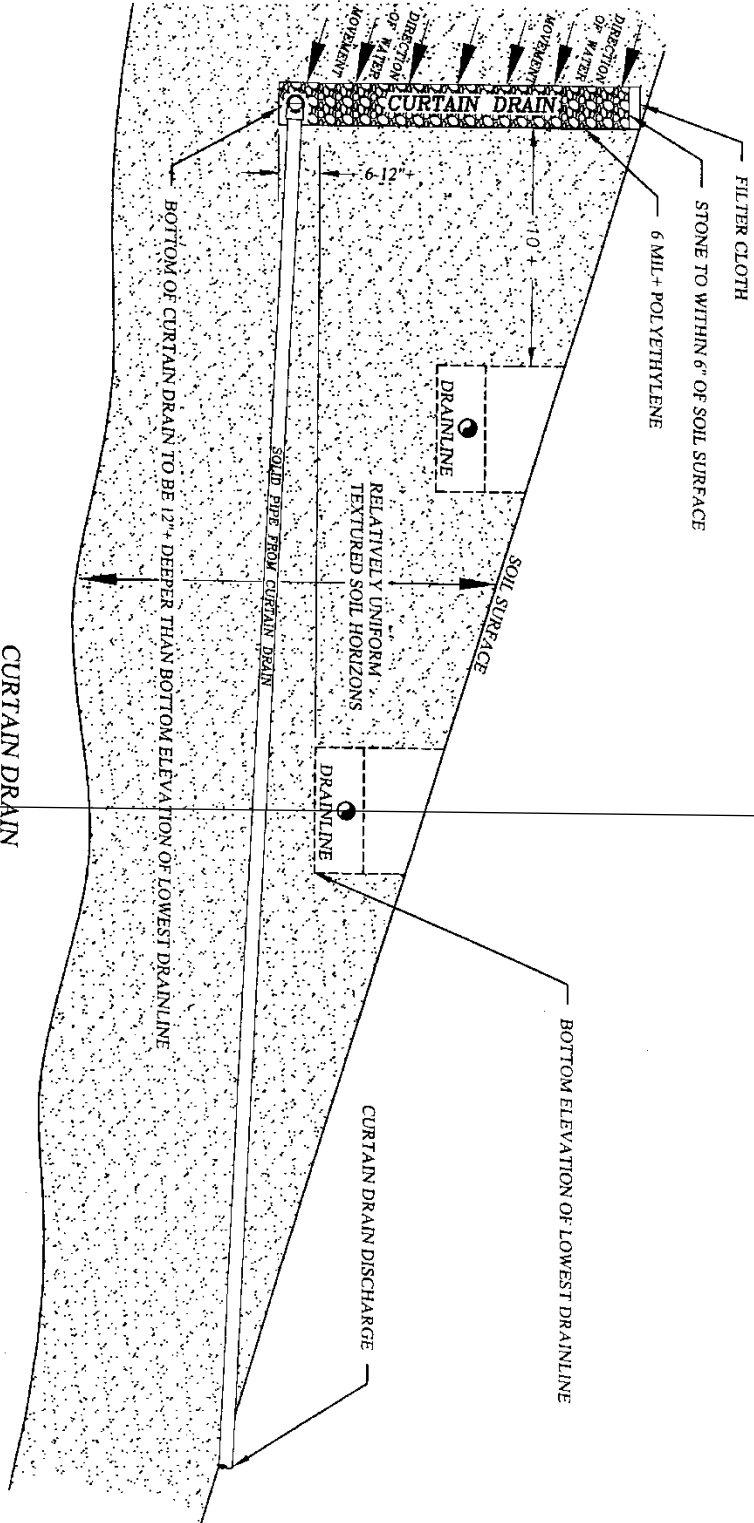
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**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH**

**CURTAIN DRAIN STANDARDS**

**CURTAIN DRAIN INSTALLATION IN SOILS WITH RELATIVELY UNIFORM HORIZONS  
TYPICAL DESIGN SKETCH**



CURTAIN DRAIN  
SECTION A-A  
DRAWING C

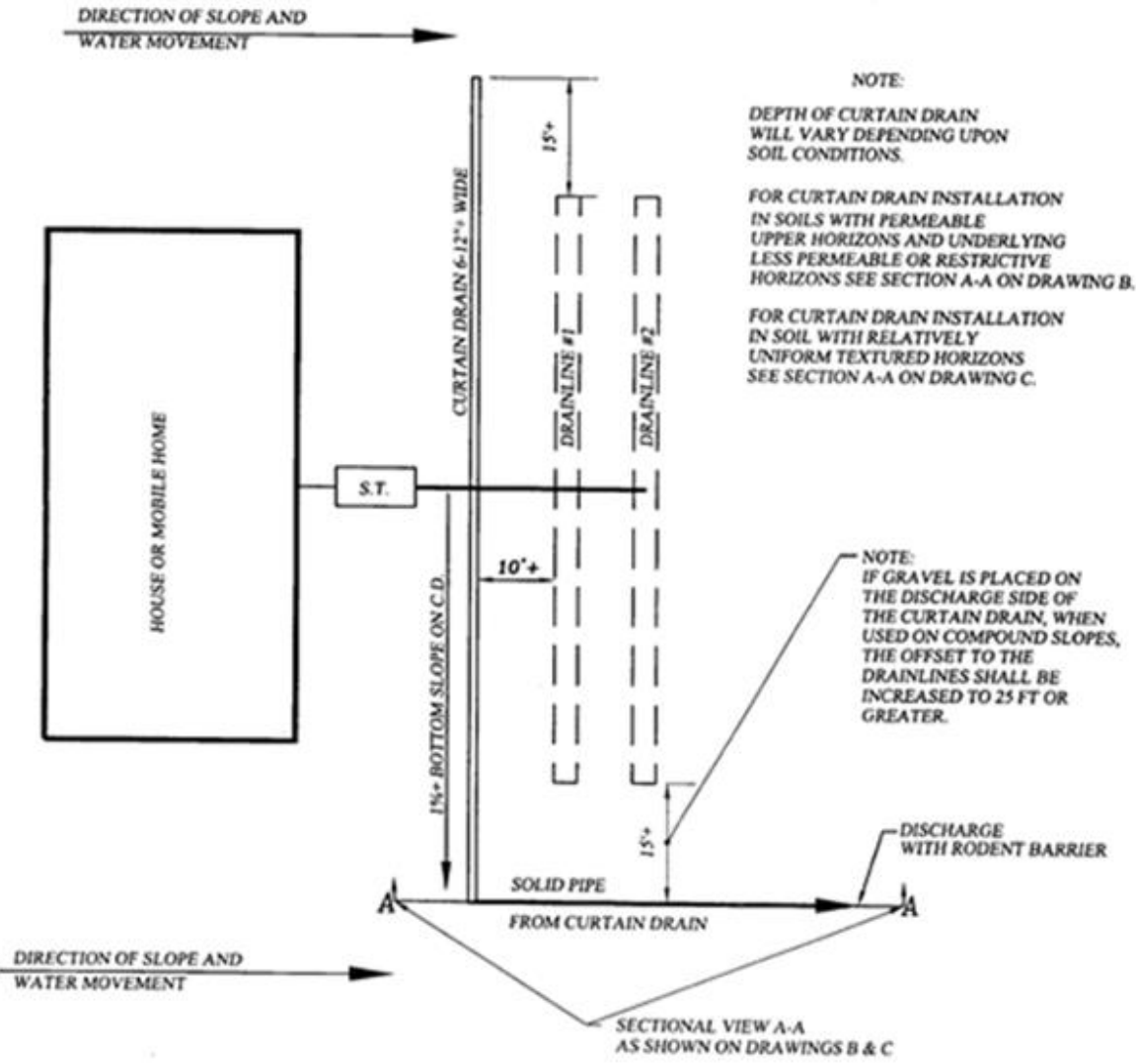
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**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**CURTAIN DRAIN STANDARD**

**TYPICAL DESIGN SKETCH**



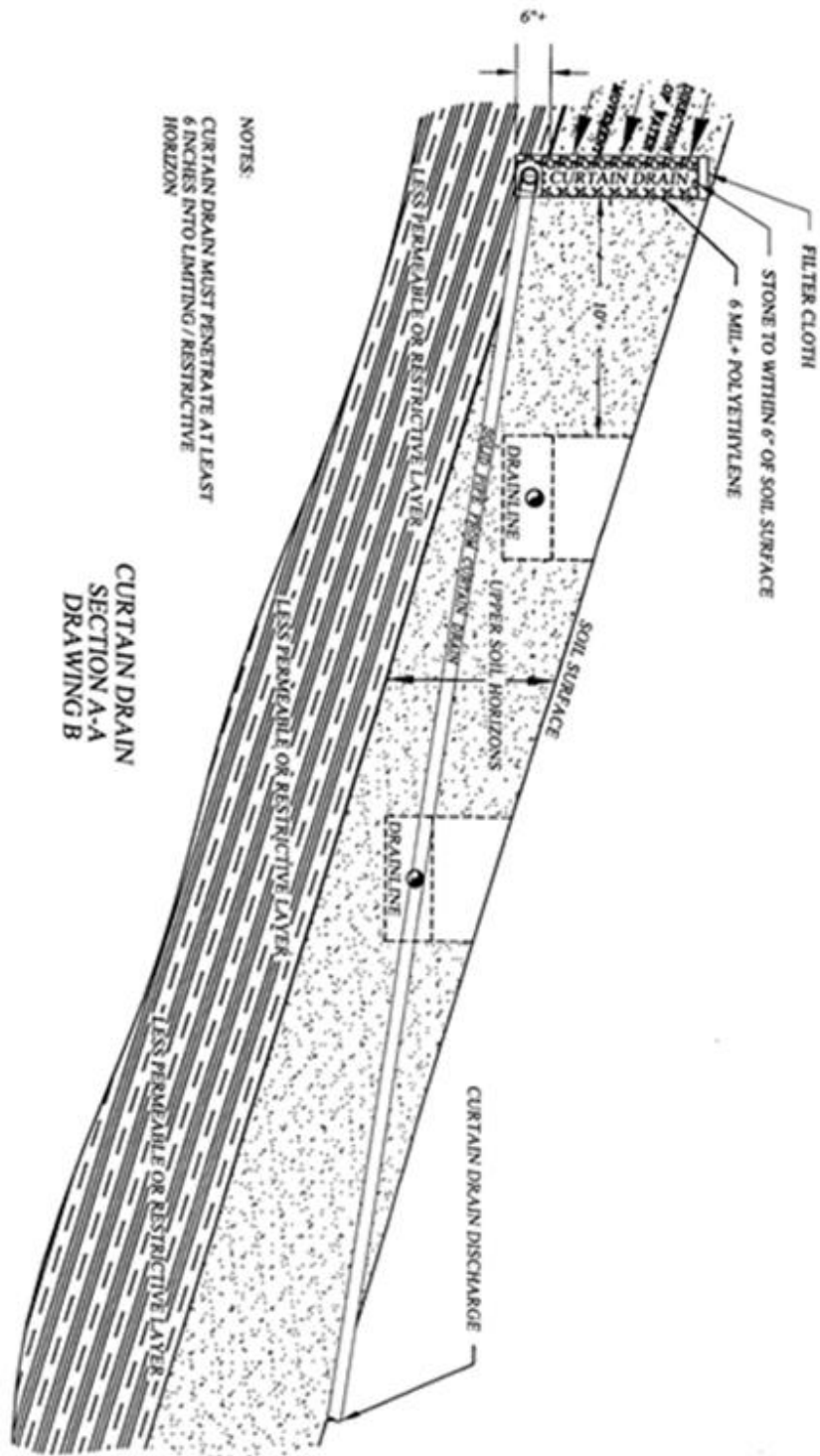
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Rev. 03/09/18

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

**CURTAIN DRAIN STANDARDS**

CURTAIN DRAIN INSTALLATION IN SOILS WITH RESTRICTIVE OR LESS PERMEABLE HORIZONS BELOW THE DRAINFIELD  
**TYPICAL DESIGN SKETCH**



**NOTES:**  
CURTAIN DRAIN MUST PENETRATE AT LEAST  
6 INCHES INTO LIMITING / RESTRICTIVE  
HORIZON

**CURTAIN DRAIN  
SECTION A-A  
DRAWING B**

DRAWING NOT TO SCALE

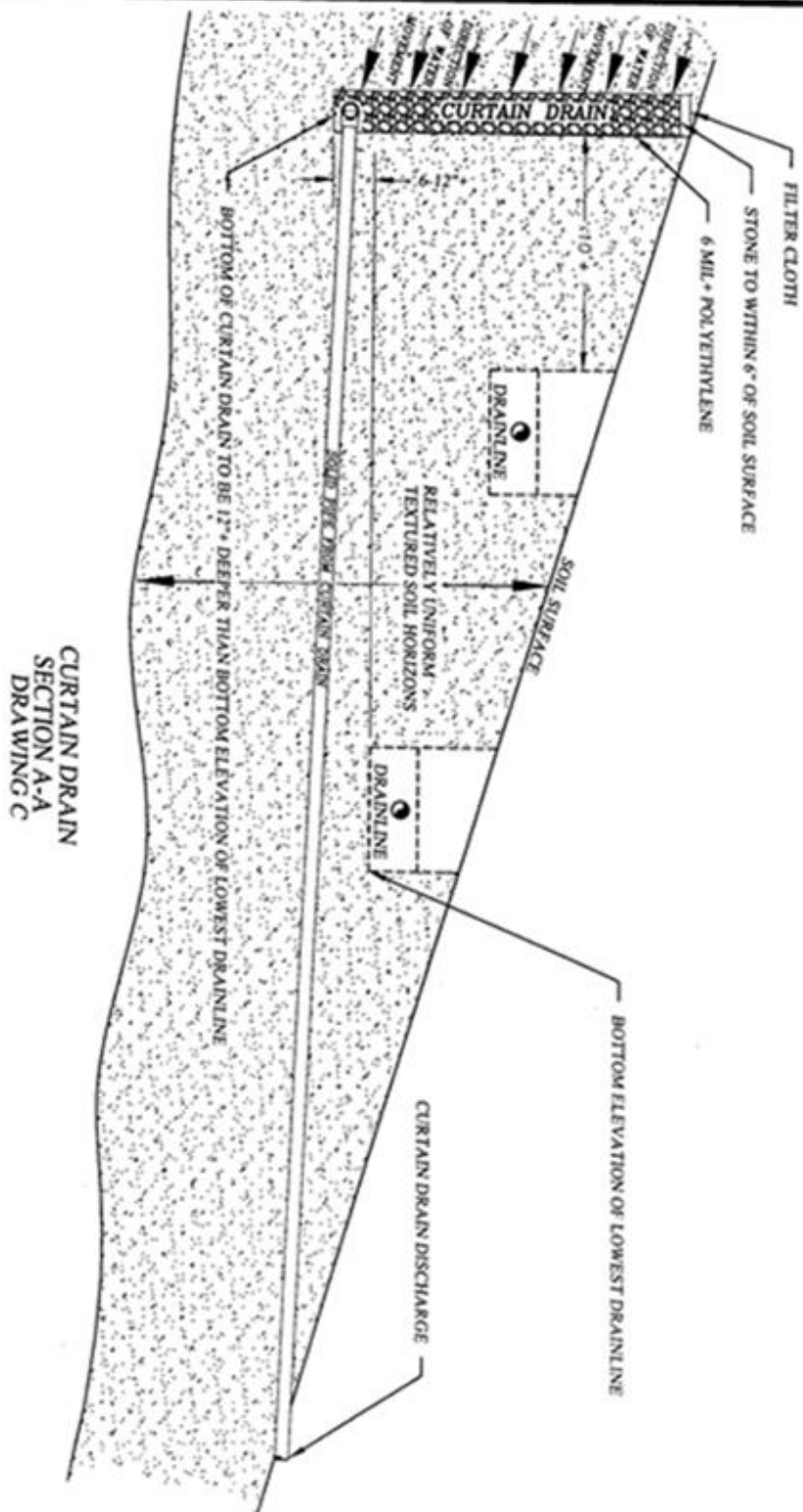
Rev. 03/09/18



SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
BUREAU OF ENVIRONMENTAL HEALTH SERVICES

CURTAIN DRAIN STANDARDS

CURTAIN DRAIN INSTALLATION IN SOILS WITH RELATIVELY UNIFORM HORIZONS  
TYPICAL DESIGN SKETCH



DRAWING NOT TO SCALE

Rev. 03/09/18

## **Appendix S – Nonwater-Carried Sewage Treatment Systems**

(1) The permitting of nonwater-carried sewage treatment systems, such as a biological, composting, or incinerating toilet, may be considered for toilet wastes when a proposed site is unsuitable for the issuance of an onsite wastewater system permit under the system standards in Appendices A through R. Nonwater-carried sewage treatment systems shall be designed, installed, maintained, and operated without endangering public health, the environment, or creating a nuisance.

(2) With the application for a permit to construct, all applicants seeking to install a nonwater-carried sewage treatment system must submit to the Department plans from a Registered Professional Engineer licensed in South Carolina that describe the design and installation of the proposed nonwater-carried sewage treatment system and demonstrate the following:

(a) The system complies with all local codes and ordinances.

(b) All products and processes meet applicable National Sanitation Foundation (NSF) Standards and American National Standards Institute (ANSI) Standard 41 and bear the seal of approval of the NSF or an equivalent testing and certification program.

(c) Compartment and appurtenances are insect and vector-proof and have continuous exterior ventilation.

(d) There will be no liquid wastewater produced by the system.

(e) Methods for training the owner/operator in the proper use, function, and maintenance of the system including safe handling and disposal methods for any residue generated by the system.

(f) All manufacturer recommendations for installation, operation, and maintenance will be followed.

(3) Applicants seeking to install a nonwater-carried sewage treatment system at a site where water under pressure will be connected to the structure and gray water is generated (from showers, sinks, etc.), but where nonwater-carried sewage treatment systems will be the only means for toilet waste disposal, must:

(a) Submit plans from a Registered Professional Engineer licensed in South Carolina that meet the requirements of Appendix S, paragraphs (2)(a) through (f), for all toilet wastes; and

(b) Apply for and obtain a Department permit to construct and approval to operate an onsite wastewater system for treatment of gray water. This system must meet all permit, licensing, and onsite wastewater system requirements under this regulation, except that the initial system size may be reduced by twenty-five (25) percent.

(4) A licensed installer is not required for the installation of a nonwater-carried sewage treatment system under this standard. However, engineering certifications using the applicable Department form must be submitted to the Department before the Department will issue an approval to operate a system under this standard.

## **Appendix T – Wastewater Combustion Systems**

(1) Wastewater combustion systems may be considered when a proposed site is unsuitable for the issuance of an onsite wastewater system permit under the system standards in Appendices A through R. A

wastewater combustion system shall be designed, installed, maintained, and operated without endangering public health, the environment, or creating a nuisance.

(2) With the application for a permit to construct, all applicants seeking to install a wastewater combustion system must submit to the Department plans from a Registered Professional Engineer licensed in South Carolina that describe the design and installation of the proposed wastewater combustion system and demonstrate the following:

(a) The system complies with all local codes and ordinances.

(b) Canadian Standards Association (CSA) certification of the wastewater combustion system in the United States.

(c) The system must be of adequate size to handle the wastewater volume and peak flow generated by the structure.

(d) Compartment and appurtenances are insect and vector-proof and have continuous exterior ventilation.

(e) All liquid wastewater produced must be sent to the combustion system. Liquid wastewater must not be sent to an onsite wastewater system or held in a storage system to be pumped and hauled.

(f) Methods for training the owner/operator in the proper use, function, and maintenance of the system including safe handling and disposal methods for any residue generated by the system.

(g) All manufacturer recommendations for installation, operation, and maintenance will be followed.

(3) Applicants seeking to install a wastewater combustion system for toilet wastes in conjunction with an onsite wastewater system for treatment of gray water generated by the structure must:

(a) Submit to the Department plans from a Registered Professional Engineer licensed in South Carolina that meet the requirements of Appendix T, paragraphs (2)(a) through (g), for all toilet wastes; and

(b) Apply for and obtain a Department permit to construct and approval to operate an onsite wastewater system for treatment of gray water. This system must meet all permit, licensing, and onsite wastewater system requirements under this regulation, except that the initial system size may be reduced by twenty-five (25) percent.

(4) A licensed installer is not required for the installation of a wastewater combustion system under this standard. However, engineering certifications using the applicable Department form must be submitted to the Department before the Department will issue an approval to operate a system under this standard.

#### **Appendix U – Gray Water Subsurface Reuse Systems**

(1) With the application for a permit to construct, all applicants seeking to install a gray water subsurface reuse system must submit to the Department for approval plans from a Registered Professional Engineer licensed in South Carolina that describe the design and installation of the proposed gray water subsurface reuse system and demonstrate the following:

(a) The system complies with all local codes and ordinances.

(b) The system must be of adequate size to handle the wastewater volume and peak flow generated by the structure.

(c) Compartment and appurtenances are insect and vector-proof and have continuous exterior ventilation.

(d) All gray water produced by the structure must be sent to the gray water subsurface reuse system or to a separate onsite wastewater system for treatment and disposal of domestic wastewater. Liquid wastewater must not be held in a storage system to be pumped and hauled.

(e) Methods for training the owner/operator in the proper use, function, and maintenance of the system including safe handling and disposal methods for any residue generated by the system.

(f) All manufacturer recommendations for installation, operation, and maintenance will be followed.

(2) This regulation does not apply to or permit the reuse of gray water for any purpose, or by any means, other than subsurface irrigation. This regulation also does not apply to or permit any reuse or recirculation of gray water within the confines of (i.e., via the plumbing within) a dwelling unit, building, business, or other structure.

(3) A property owner proposing to install a gray water subsurface reuse system for the reuse and disposal of gray water shall ensure that there is also an approved method of treatment and disposal for all other domestic wastewater and sewage generated by the structure. An onsite wastewater system for the treatment and disposal of all other domestic wastewater and sewage generated by the structure shall meet all requirements of this regulation, including standard sizing requirements.

(4) A licensed installer is not required for the installation of a gray water subsurface reuse system under this standard. However, engineering certifications using the applicable Department form must be submitted to the Department before the Department will issue an approval to operate a system under this standard.

~~500 APPENDIX Q — LONG TERM ACCEPTANCE RATE STANDARD FOR ONSITE WASTEWATER SYSTEMS~~  
**500. Long-Term Acceptance Rate Standard for Onsite Wastewater Systems.**

USDA-NRCS SOIL TEXTURE	SOIL CHARACTERISTICS WHEN MOIST (FIELD TEST)	LONG-TERM ACCEPTANCE RATE (GPD/SF)	
Sand (S)	<del>Sandy</del> Sand has a gritty feel, does not stain the fingers, and does not form ribbon or ball when wet or moist.	0.9 – 1.0	Class I
Loamy Sand (LS)	Loamy sand has a gritty feel, stains the fingers, forms a weak ball, and cannot be handled without breaking.		
Sandy Loam (SL)	Sandy loam has a gritty feel and forms a ball that can be picked up with the fingers and handled with care without breaking.	0.7 – 0.8	Class II
Loam (L)	Loam may have a slightly gritty feel but does not show a fingerprint, and forms only short ribbons of from 0.25 – 0.50 inch. Loam will form a ball that can be handled without breaking.		

<u>USDA-NRCS SOIL TEXTURE</u>	<u>SOIL CHARACTERISTICS WHEN MOIST (FIELD TEST)</u>	<u>LONG-TERM ACCEPTANCE RATE (GPD/SF)</u>	
Sandy Clay Loam (SCL)	Sandy clay loam has a gritty feel but contains enough clay to form a firm ball; and may ribbon from 0.75 – 1.0 inch.	0.5 – 0.6	Class III
Clay Loam (CL)	Clay loam is sticky when moist, forms a ribbon of 1.0 – 2.0 inches, and produces a slight sheen when rubbed with the thumbnail. Clay loam produces a nondistinct fingerprint.		
Silt Loam (SiL)	Silt loam has a floury feel when moist and will show a fingerprint, but will not ribbon and forms only a weak ball.		
<u>Silt (Si)</u>	<u>Silt has a floury feel when moist and is sticky when wet but will not ribbon and forms a ball that will tolerate some handling.</u>	0.1 – 0.4	Class IV
Silty Clay Loam (SiCL)	Silty clay loam has a slight floury feel, is sticky when moist, and will ribbon from 1.0 – 2.0 inches. Rubbing with thumbnail produces a moderate sheen. Silty clay loam produces a distinct fingerprint.		
Sandy Clay (SC)	Sandy clay is plastic, gritty, and sticky when moist, forms a firm ball, and produces a ribbon in excess of 2.0 inches.		
Clay (C)	Clay is both sticky and plastic when moist, produces a ribbon in excess of 2.0 inches, produces a high sheen when rubbed with the thumbnail, and forms a strong ball resistant to breaking.		
Silty Clay (SiC)	Silty clay has a slight floury feel, is both sticky and plastic when moist, forms a ball, and produces a ribbon in excess of 2.0 inches.		

(1) The long-term acceptance rate for system sizing shall be based upon the most hydraulically limiting naturally occurring soil texture from the ground surface to twelve (12) inches below the bottom of the proposed wastewater infiltration trenches. Alternative and experimental systems installed beneath expansive soils shall be sized at a long-term acceptance rate not to exceed 0.2-0.25 ~~GPD/SF~~ gpd/sf as specified in approved standards.

(2) Soil texture shall be estimated by field testing as described above. Laboratory determination of soil texture may be substituted for field testing when conducted in accordance with: (1) Bouyoucos, G.J. 1962. Hydrometer Method Improved for Making Particle Size Analyses of Soils. Agron. J. 53:464-465; (2) ASTM D-422, Procedures for Sieve and Hydrometer Analyses; or (3) the Pipette Method (ASA-CSSA-SSSA), USDA Methods of Soils Analysis, Soil Survey Laboratory Information Manual, and Soil Survey Laboratory Methods Manual.

(3) The total linear feet (~~LF~~lf) for conventional onsite wastewater systems shall be calculated by dividing the peak daily flow (~~GPD~~gpd) by the long-term acceptance rate (~~GPD/SF~~gpd/sf) and dividing the result by the trench width (~~FT~~ft):  $LFlf = GPDgpd \div GPD/SFgpd/sf \div FTft$ . The total linear feet for alternative systems may either be increased or decreased in accordance with factors specified in alternative standards.

~~501 APPENDIX R PEAK SEWAGE FLOW RATE STANDARD~~ **501. Peak Sewage Flow Rate Standard.**

ESTABLISHMENT	UNIT	PEAK FLOW RATE GAL/UNIT/DAY
Airport (Not Including Food Service)	Passenger	3
Assembly Halls	Person	3
Bar (Not Including Food Service)	Customer Seat	5 15
Beauty/Style Shops/Barber Shops	Chair	100
Businesses/Offices/Factories	Employee/Shift	15
	Transient Employee (4 hrs or Less/Shift)	10
(Add for Showers)	Employee	10
Camps (No Laundry)	Person	35
-Labor/Summer/Retreat (Separate Food Service)	Person	10
(Separate Bath House)	Person	25
-Day Camps (with meal)	Person	15
(without meal)	Person	10
Campgrounds (No Laundry)	Campsite	120
-Full Water/Sewer	Campsite	50
-No Sewer Risers, Bathhouse only (Add for Dump Station)	Campsite	40
Car Wash (Non-automatic)	Bay	500
Church (No Daycare)	Seat	3
-With Kitchen	Seat	2
-Without Kitchen	Person	5
-Family Life Center	Child	10
Day Care	Meal	4
Food Service	Person	10
-Full Service Utensils	Seat	40
-Paper/Plastic Utensils		Reduce by 50 percent
Golf Course Club House (Not Including Foodservice)	Player	10
Kennel	Run	25
Laundromat	Machine	500
ESTABLISHMENT	UNIT	PEAK FLOW RATE GAL/UNIT/DAY
Mortuary ( <u>for domestic wastewater only, no infectious waste</u> )	Body	25
Hotel/Motel (Not Including Food Service)	Room	100
Picnic Park	Visitor	10
Public Restroom	User	3

<u>ESTABLISHMENT</u>	<u>UNIT</u>	<u>PEAK FLOW RATE GAL/UNIT/DAY</u>
Residential/Dwelling (i.e., Apartment/Condominium/Individual Dwelling, including Resort Rental and Resort Residence)	Bedroom	120
Residential Care	Resident	100
Residential Out-Building (not used as a dwelling; e.g., pool house, private workshop or garage with private-use bathroom with toilet and sink; barn with hand-wash sink)	1 to 3 Users Without washing machine	60
	With washing machine/shower	120
School -With Cafeteria, Gym & Showers -With Cafeteria only -Without Cafeteria, Gym or Showers -Boarding School	Student	15
	Student	10
	Student	8
	Person	60
Stadium (Not Including Food Service)	Seat/Occupancy	3
Swimming Area Bathhouse	Person	10
Visitor Center	Visitor	5

The peak flow rate (~~GPD~~gpd) for non-residential facilities may either be increased or reduced when comparable peak water consumption data for similar establishments in similar locations vary from the requirement. When considering such data, at least twelve (12) consecutive months must be presented with the maximum month of consumption and the days of operation per month being utilized to arrive at the peak flow rate (~~GPD~~gpd).

~~600 APPENDIX S — ONSITE WASTEWATER PUMP SYSTEM STANDARD~~ **502. Onsite Wastewater Pump System Standard.**

~~600.1 PUMP TANK (GENERAL)~~ **502.1. Pump Tank (General).**

(1) The submersible sewage effluent pump(s) must be housed in a properly vented, watertight tank that is readily accessible from the surface.

(2) A watertight access opening with removable lid shall be provided; and shall be designed and maintained to prevent surface water inflow. -Risers and other pump tank sections, where present, shall be joined using mastic, butyl rubber, or other pliable sealant that is waterproof, corrosion-resistant, and approved for use in septic tanks.

(3) When the pump tank must be located in an area characterized by a shallow zone of ~~seasonal~~ saturation, the Department may require the use of a pre-cast manhole, a fiberglass or polyethylene basin, or any other acceptable method for preventing groundwater intrusion.

(4) When the pump tank must be located in an area that is environmentally sensitive or subject to flooding, applicable portions of ~~R. 61-67~~R.61-67, Standards for Wastewater Facility Construction, shall apply.

(5) The pump tank shall have sufficient capacity to accommodate all level control and alarm switches; to keep the pump(s) totally submersed in liquid at all times; and to provide the required dosing volume and minimum pump run time. ~~It is strongly recommended that pump tank capacities be as large as possible (i.e., 500-1000 gal.)~~ Pump tank capacity must be at least 500 gallons in order to provide emergency storage in the event of pump or power failure and to assist in maintaining the minimum pumping rate as listed in Section 502.2.

(6) Pre-engineered, manufactured packaged pump stations can be utilized in lieu of the composite design described herein, provided the pump meets the minimum capacity requirements of the system and no alterations are made to the pump station other than those specifically authorized by the manufacturer.

~~600.2 MINIMUM PUMPING RATES (PEAK INFLOW) AND MINIMUM RUN TIMES~~502.2. Minimum Pumping Rates (Peak Inflow) and Minimum Run Times.

(1) For residential systems, the maximum daily flow entering the pump tank shall be based upon one hundred twenty (120) gpd per bedroom. ~~For commercial and other facilities, this value shall be based upon the Standard for Determining Sewage Flow Rates from Commercial and Recreational Establishments Section 501, Peak Sewage Flow Rate Standard.~~

(2) The minimum pumping rate (peak inflow) for discharges up to fifteen hundred (1500) gpd shall be determined as follows:

<u>Maximum Estimated Daily Flow (gpd)</u>	<u>Minimum Pumping Rate (peak inflow) (gpm)</u>
480 and less	10
481 - 720	15
721 - 1500	20

(3) The minimum pumping rate (peak inflow) for discharges in excess of fifteen hundred (1500) gpd shall be determined by multiplying the average flow rate (gpm) times a peaking factor of not less than 2.5, where the average flow rate is based upon actual minutes per day of facility operation.

(4) The minimum pump run time for all pump systems shall be determined as follows:

<u>Minimum Pumping Rate (peak inflow) (gpm)</u>	<u>Minimum Pump Run time (min)</u>
10 - 14	3
15 - 24	4
25 and above	5

~~600.3 MINIMUM DOSING VOLUME, SCOURING VELOCITY, AND PUMP CAPACITY~~ 502.3. Minimum Dosing Volume, Scouring Velocity, and Pump Capacity.

(1) The minimum dosing volume (gal) shall be determined by multiplying the minimum pumping rate (gpm) times the minimum pump run time (min).



(2) The selected pump(s) must have the capacity to deliver the minimum pumping rate (gpm) at a scouring velocity of at least one (1) ft/sec (effluent) or two (2) ft/sec (raw) against the total dynamic head of the system. -This minimum pump capacity (gpm at total feet of dynamic head) shall be specified on ~~SCDHEC Form 1739~~ the permit to construct.

(3) Duplex pumps shall be required when the maximum estimated daily flow is equal to or greater than fifteen hundred (1500) gallons, and each pump shall meet the minimum capacity as stated above.

(4) In those cases where the minimum pump capacity or any other system requirements exceed what can be specified ~~thru~~ through the use of this Standard, the Department shall require the applicant to retain the services of a Registered Professional Engineer licensed in South Carolina.

#### ~~600.4~~ FORCE MAIN, VALVES, AND FITTINGS 502.4. Force Main, Valves, and Fittings.

(1) The force main shall be Schedule 40 PVC, and the diameter shall be sufficient to provide a velocity of at least one (1) ft/sec (effluent) or two (2) ft/sec (raw) using a C Factor of one hundred fifty (150) (effluent) or one hundred forty (140) (raw) at the minimum pumping rate (peak inflow). The force main shall be installed a minimum of eight (8) inches below the ground surface. Fittings and valves shall be of compatible corrosion resistant material.

(2) A threaded union, flange, or similar disconnect device shall be provided in each pump discharge line. -The pump(s) shall be easily removable at ground surface without requiring entrance into the tank. Valves shall also be readily accessible from the ground surface. -Duplex pump systems shall be equipped with a separate pit or box for the placement and operation of valves.

(3) A shutoff valve (e.g., gate valve) and a check valve shall be located on the discharge line from each pump. -The check valve shall be placed between the pump and the shutoff valve.

(4) A three-sixteenths (3/16) inch anti-siphon hole(s) shall be placed between the pump(s) and the check valve(s) when the discharge elevation of the distribution system is below the inlet to the pump tank.

(5) In cases where the force main must be installed over undulating terrain, automatic air relief valves shall be placed at high points in the line to prevent air locking.

(6) Exposed force mains crossing ditches and bodies of water (e.g., creeks and wetlands) and force mains under driveways and parking areas must be protected by encasing them within a larger diameter pipe that can withstand potential damage (e.g., galvanized pipe, steel pipe, ductile iron). Force mains under driveways and parking areas may also be protected by encasing them within a larger diameter schedule 80 PVC pipe. The protective piping should extend beyond the area of needed protection for at least ten (10) linear feet.

~~(6)~~(7) The force main effluent shall discharge into a separate discharge box or distribution manifold before entering either a septic tank or a soil wastewater infiltration trench. -The flow shall be directed to the bottom of the box ~~thru~~ through a PVC elbow; or into a distribution manifold at an angle of ninety (90) degrees to the septic tank or first wastewater infiltration trench.

#### ~~600.5~~ 502.5. Pumps, Control Devices and Electrical Connections.

(1) Pumps shall be listed by Underwriter's Laboratory or an equivalent ~~third party~~ third-party testing and listing agency; and shall be specifically manufactured for use with domestic wastewater.

(2) Sealed mercury control floats or similar devices designed for detecting liquid levels in septic tank effluent shall be provided to control pump cycles. -A separate level sensing device shall be provided to activate an audible and visible high water alarm. -Pump-off levels shall be set to keep the pump submerged at all times.

(3) Pump and control circuits shall be provided with manual circuit disconnects within a watertight, corrosion resistant, outside enclosure (NEMA 4X or equivalent) adjacent to the pump tank, securely mounted at least twelve (12) ~~inches~~ above finished grade, unless installed within a weather-tight building. Alarm circuits shall be supplied ahead of any pump overload or short circuit protective devices. -The pump(s) shall be manually operable without requiring special tools or entrance into the tank for testing purposes. -Conductors shall be conveyed to the disconnect enclosure through water proof, gas proof, and corrosion resistant conduit(s); with no splices or junction boxes provided inside the tank. -Wire grips, duct seal, or other suitable material shall be used to seal around wire and wire conduit openings inside the pump tank and disconnect enclosure.

(4) For systems requiring duplex pumps, each pump shall operate in a lead-lag sequence and be on an alternating cycle. -A control panel shall be provided which shall include short circuit protection for each pump and for the control system, independent disconnects, automatic pump sequencer, hands-off-automatic (H-O-A) switches, run lights, and elapsed time counters for each pump.

#### ~~600.6 FINAL INSPECTION AND APPROVAL~~ 502.6. Final Inspection and Approval.

(1) Before or during final inspection, the property owner or agent shall provide literature, including a pump curve, describing the specific pump installed. -The inspector shall evaluate the system in accordance with this Standard, and shall confirm that all items, including the minimum pump capacity specified on ~~SCDHEC Form 1739~~ the permit to construct, have been satisfied.

(2) Prior to final approval, the installer or electrician shall provide the Department with written documentation verifying that pump system electrical connections were made in accordance with all applicable codes. The Department may require testing of the pump system, demonstration of watertight integrity, or any other procedure deemed necessary to confirm the acceptability of the installation.

#### ~~600.7~~ 502.7. Raw Sewage Pump Stations.

(1) In those cases where it is necessary to pump raw sewage from a residence or facility to an onsite wastewater system, the pump station shall meet all applicable portions of this Standard and ~~R. 61-67R.61-67~~, Standards for Wastewater Facility Construction.

(2) Adherence to the pump manufacturer's recommendations shall also be a major consideration with such systems.

#### ~~700. APPENDIX T - MINIMUM DESIGN STANDARDS FOR TANK CONSTRUCTION~~ 503. Minimum Design Standards for Tank Construction.

##### ~~700.1 INTRODUCTION~~ 503.1. Introduction.

The following standards describing tank designs intended to be utilized for septic tanks, grease traps, or pump chambers for onsite wastewater ~~disposal~~ systems have been adopted in an effort to assure a quality product of sufficient strength and resistance, capable of fulfilling its intended purpose.

##### ~~700.2 DESIGN APPROVAL~~ 503.2. Design Approval.

(1) No person shall manufacture tanks intended to be utilized for septic tanks, grease traps, or pump chambers for onsite wastewater ~~disposal~~-systems without receiving approval from the Department. All manufactured tanks must receive approval of design and reinforcement methods prior to manufacturing.

(2) Any person desiring to manufacture tanks shall ~~make-submit a~~ written application on forms provided by the Department. Such application shall include the name and address, the location of the facility, tank capacity, and design information.

(3) Prior to approval, the Department shall review the tank design, reinforcement, and manufacturing methods to determine compliance.

(4) The Department shall approve plans for manufactured tanks to ~~i~~ensure compliance with the South Carolina Minimum Design Standards for Tank Construction.

(5) The Department shall approve plans for fabricated tanks, other than those for precast reinforced concrete tanks, on an individual basis. Fabricated tanks shall meet the requirements of precast reinforced concrete tanks to provide equivalent effectiveness.

(6) The Department shall issue an approval to the tank manufacturer if the tank design, reinforcement and manufacturing method complies with the South Carolina Minimum Design Standards for Tank Construction. Tank manufacturing approvals are not transferable. When a change of ownership occurs, the new owner shall ~~make-submit a~~ written application on forms provided by the Department.

(7) The Department shall revoke approval to manufacture tanks for onsite wastewater ~~disposal~~-systems if the tank manufacturer fails to comply with the South Carolina Minimum Design Standards for Tank Construction.

~~700.3 GENERAL~~ 503.3. General.

(1) Septic tanks and grease traps shall be manufactured as single compartment or partitioned tanks.

(2) If septic tanks and grease traps are manufactured with a partition so that the tank contains two (2) compartments, the inlet compartment of the tank shall contain two-thirds (2/3) of the overall capacity, and the outlet compartment shall contain one-third (1/3) of the overall capacity. The top of the partition shall terminate two (2) inches below the bottom side of the tank top in order to leave space for air or gas passage between compartments. The top and bottom halves of the partition shall be constructed in such manner as to leave a four (4) inch water passage at the vertical ~~mid-point~~ mid-point of the partition wall for the full width of the tank.

(3) The minimum liquid capacity requirements shall be met by the use of a single septic tank or two (2) or more tanks installed in series. -Septic tanks joined in series shall be interconnected by an upper effluent pipe(s) with a minimum diameter of four (4) inches and a lower sludge pipe(s) with a minimum diameter of twelve (12) inches. -The upper connection(s) shall be installed level from tank to tank, and the lower sludge pipe connection(s) shall be installed level and shall be placed twelve (12) inches above the bottoms of the tanks. -The lower sludge pipe connection(s) can be eliminated if the first tank in series contains at least two-thirds (2/3) of the total required liquid capacity. There shall be no more than two (2) inches of fall from the inlet invert of the first tank to the outlet invert of the last tank in series.

(4) It is required that all pump chambers function as a single compartment tank. –If a two (2) compartment tank is used, at least two (2) six (6) inch diameter holes or equivalent, must be provided in the partition wall six (6) inches from the tank bottom.

(5) The septic tank and grease trap tank length shall be at least two (2) but not more than three (3) times the width.

(6) The liquid depth shall not be less than four (4) feet.

(7) A minimum of nine (9) inches of freeboard shall be provided in all tanks, unless otherwise approved by the Department.

(8) Useable liquid capacity for septic tanks or grease traps shall not be less than one thousand (1000) gallons.

(9) The pump tank shall have sufficient capacity to accommodate all level control and alarm switches; to keep the pump(s) totally submersed in liquid at all times; and to provide the required dosing volume and minimum pump run time. –It is strongly recommended that pump tank capacities be as large as possible in order to provide emergency storage in the event of pump or power failure.

(10) There shall be a minimum of two (2) openings in the tank wall, located at the inlet and outlet ends of the tank. The knockouts for the inlet and outlet openings of pre-cast tanks shall have a concrete thickness of not less than one (1) inch in the tank wall. The openings shall allow for a minimum of four (4) inch pipe or a maximum of six (6) inch pipe. No openings shall be permitted below the tank liquid level.

(11) The inlet and outlet for septic tanks and grease traps shall be a cast-in-place concrete tee, a polyvinyl chloride (PVC) tee, or a polyethylene (PE) tee, made of not less than Schedule 40 pipe or equivalent fittings and material. The cast-in-place concrete tees shall have a minimum thickness of not less than two (2) inches. The invert of the outlet shall be at least two (2) inches lower in elevation than the invert of the inlet. The inlet and outlet tees shall extend above liquid depth to approximately one (1) inch from the top of the tank to allow venting between tank compartments and multiple tank configurations.

(12) The inlet tee for septic tanks and grease traps shall extend sixteen (16) inches below the liquid level.

(13) The outlet tee for a septic tank shall extend eighteen (18) inches below the liquid level and the outlet tee for a grease trap shall extend between six (6) and twelve (12) inches above the tank bottom.

(14) The inlet, outlet, and wiring conduit openings of all tanks must utilize a resilient, watertight, non-corrosive connective sleeve. –The use of grout is prohibited.

(15) Access to each tank or compartment shall be provided by an opening located above the inlet and outlet with an inside dimension of at least eighteen (18) inches square (18 x 18) or in diameter, with removable tank access lids.

(16) Concrete tank access lids shall be equipped with steel lift rings at least three-eighths (3/8) inch diameter; or by an alternative method approved by the Department.

(17) Should risers or manholes be utilized to allow access into septic tanks, grease traps, or pump chambers, the risers/~~manholes~~ or manhole covers, as applicable, shall be constructed to prevent the release of odors, entry of vectors, and water. Grade level riser/manhole covers shall be secured by bolts or locking

mechanisms, or have sufficient weight to prevent unauthorized access. -The ground shall slope away from any access extended to grade level.

(18) Risers/manholes shall be sealed to the tank by using bituminous mastic, butyl rubber, or other pliable sealant that is waterproof, corrosion-resistant, and approved for use in tank construction. The sealant shall have a minimum size of one (1) inch diameter or equivalent. The joint shall be smooth, intact, and free of all deleterious substances before sealing.

(19) After curing, all multi-piece tanks shall be joined and sealed at the joints by using a bituminous mastic, butyl rubber, or other pliable sealant that is waterproof, corrosion-resistant, and approved for use in tank construction. The sealant shall have a minimum size of one (1) inch diameter or equivalent. The joint shall be smooth, intact, and free of all deleterious substances before sealing. The use of grout is prohibited.

(20) All tanks must pass the ASTM C-1227 Standard for watertight testing. The Department will choose tanks at random for testing. -Tanks will be approved for use in South Carolina after the Department ascertains that the standard is met. After joining, tanks manufactured in multiple sections shall be plastered along the section joints with hydraulic cement or other waterproofing sealant. Other methods of waterproofing tanks may be used as specifically approved in the plans and specifications for the tank. Prior to backfilling, the ~~local health department~~ Department shall make a finding that multiple section tanks are watertight if a soil wetness condition is present within five feet of the elevation of the top of the tank. -Any tank found to be improperly sealed, having cracks or holes, which will allow for water infiltration or discharge of sewage from the tank bottom, walls, or top, will not be approved for use.

(21) Tank manufacturers must have equipment and capabilities for portion control to maintain constant mixture formulation ratios and provide for systematic inspection of finished products to ~~insure~~ ensure compliance with the minimum tank construction and design standards.

(22) The concrete mix used for concrete tank components must be formulated to yield a minimum twenty-eight (28) day compressive strength of four thousand (4,000) pounds per square inch (psi).

(23) The aggregate size utilized in the concrete mix shall not exceed one-third (1/3) of the wall thickness. Suitable aggregates include sand particle sizes from a fine to one-fourth (1/4) inch gravel or crushed stone. Granite dust or fine screenings from a crusher operation may be used in lieu of sand.

(24) An identifying seal must be cast or permanently affixed by an approved method from the Department on the outlet tank wall within six (6) inches of the top. The identifying seal shall identify the manufacturer and the liquid capacity of the tank. The tank's cast date shall be located on the identifying seal or imprinted on the top of the tank within six (6) inches from outlet tank wall near the identifying seal. The lettering on the identifying seal or date imprinted on the top of the tank shall be no more than six (6) inches in height.

(25) The tank manufacturer shall guarantee all tanks in writing for two (2) years against failure due to poor workmanship and materials.

(26) Changes in approved tank design, construction, and alternative reinforcing methods will not be allowed without prior approval from the Department.

#### ~~700.4 PRE-CAST CONCRETE NON-FIBER REINFORCED SEPTIC TANKS AND GREASE TRAPS~~ 503.4. Pre-Cast Concrete Non-Fiber Reinforced Septic Tanks and Grease Traps.

(1) The tank walls and bottom shall be reinforced with six ~~inch~~-by six ~~inch~~-(6 x 6) inch ten (10) gauge wire mesh.

(2) Tank tops shall be reinforced with six by six ~~inch~~ (6 x 6) inch ten (10) gauge wire mesh, a minimum of five (5) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart; and four (4) sections of three-eighths (3/8) inch diameter steel reinforcing bars placed diagonally from the corners to the center of the tank. -The length of the perpendicular reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall. -The length of the four (4) diagonal steel reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall and six (6) inches beyond the closest perpendicular steel reinforcing bar.

(3) If a septic tank or grease trap is manufactured with a partition, the tank partition (both halves) shall be reinforced with six by six ~~inch~~ (6 x 6) inch ten (10) gauge wire mesh. The reinforcing wire shall be bent to form an angle of ninety (90) degrees on the ends in order to form a leg not less than four (4) inches long. When the wire is placed in the mold, the four-inch legs shall lay parallel with the sidewall wire and adjacent to it.

(4) The tank walls and bottom thickness shall be at least two and one-half (2½) inches, and top thickness shall be at least three (3) inches.

(5) All reinforcing wire and rods must be covered by at least one-half (1/2) inch of concrete.

(6) An acceptable vibration method shall be employed in the construction of the tank to prevent voids in the tank walls, bottom and top.

~~700.5 PRE-CAST CONCRETE FIBER REINFORCED SEPTIC TANKS AND GREASE TRAPS~~ 503.5.  
Pre-Cast Concrete Fiber Reinforced Septic Tanks and Grease Traps.

(1) Tank tops shall be reinforced with a minimum of five (5) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart, and four (4) sections of three-eighths (3/8) inch diameter steel reinforcing bars placed diagonally from the corners to the center of the tank. -The length of the perpendicular reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall. -The length of the four (4) diagonal steel reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall and six (6) inches beyond the closest perpendicular steel reinforcing bar.

(2) Tank bottoms shall be reinforced with a minimum of seven (7) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart. -The length of the perpendicular reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall.

(3) If a septic tank or grease trap is manufactured with a partition, the tank partition (both halves) shall be reinforced with six by six ~~inch~~ (6 x 6) inch ten (10) gauge wire mesh. The reinforcing wire shall be bent to form an angle of ninety (90) degrees on the ends in order to form a leg not less than four (4) inches long. When the wire is placed in the mold, the four-inch legs shall lay parallel with the sidewall wire and adjacent to it.

(4) The tank perimeter walls shall be reinforced with three-eighths (3/8) inch diameter steel reinforcing bars located one (1) inch from the tank's top and bottom section seams.

(5) The tank walls and bottom thickness shall be at least two and one-half (2½) inches, and top thickness shall be at least three (3) inches.

- (6) All reinforcing wire and rods must be covered by at least one-half (1/2) inch of concrete.
- (7) Fiber products used with this reinforcement design must be added during the mixing process in order to achieve even distribution throughout the concrete mixture.
- (8) Fiber length must range from at least one (1) to no more than two (2) inches.
- (9) The fiber must be specifically manufactured for use as a concrete secondary reinforcement and be a polypropylene fibrillated (two-dimensional fiber mesh network) material.
- (10) An acceptable vibration method shall be employed in the construction of the tank to prevent voids in the tank walls, bottom and top.

~~700.6 CONCRETE BLOCK SEPTIC TANKS AND GREASE TRAPS~~ 503.6. Concrete Block Septic Tanks and Grease Traps.

- (1) The tank walls and partition thickness shall be at least eight (8) inches and the top cover slabs thickness shall be at least four (4) inches.
- (2) The tank bottom shall be a single pour concrete slab to a depth of at least four (4) inches within the first block course.
- (3) If a septic tank or grease trap is manufactured with a partition, the tank walls and partition shall be constructed of solid sixteen ~~inch~~-by eight ~~inch~~-by eight ~~inch~~ (16 x 8 x 8) inch concrete blocks. The use of hollow blocks is prohibited.
- (4) All joints between concrete blocks shall be mortared using masonry cement mortar or equivalent. The joints shall have a nominal thickness of three-eighths (3/8) inch.
- (5) The upper partition wall may be supported by the use of two ~~inch~~-by four ~~inch~~-by eight (2 x 4 x 8) inch bricks (or equivalent support material) standing on edge located at the block seams of the upper partition wall.
- (6) The top cover slabs shall be constructed such that the individual slabs will not exceed two (2) feet in width and the length will be sufficient to extend to the outside tank width with a minimum slab thickness of four (4) inches.
- (7) The individual top cover slabs shall be reinforced with a minimum of two (2) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls spaced twelve (12) inches apart from the center. The length of the perpendicular reinforcing bars shall be of sufficient length to extend the full length of the slab.
- (8) The end cover slabs shall be constructed such that the individual slabs will not exceed three (3) feet in width and the length will be sufficient to extend to the outside tank width with a minimum slab thickness of four (4) inches.
- (9) The end cover slabs shall be cast to allow access to each tank or compartment by providing an opening located above the inlet and outlet tee with an inside dimension of eighteen (18) inches square (18 x 18 inches) or in diameter with removable tank access lids.

(10) The individual end cover slabs shall be reinforced with two (2) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls spaced twelve (12) inches apart from the center and two (2) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls spaced sixteen (16) inches apart from the center. The length of the perpendicular reinforcing bars shall be of sufficient length to extend the full length of the slab.

(11) The top and end cover slab seams shall be sealed to the tank walls and at all joints by using a bituminous mastic, butyl rubber, or other pliable sealant that is waterproof, corrosion-resistant, and approved for use in septic tanks. The sealant shall have a minimum size of one (1) inch diameter or equivalent. The use of grout is prohibited.

(12) The tank top and end cover slabs shall be equipped with steel lift handles at least one half (1/2) inch diameter, or by an alternative method approved by the Department.

(13) All reinforcing rods must be covered by at least one-half (1/2) inch of concrete.

(14) The interior of the tank (walls and bottom) shall be plastered with a waterproofing cement compound.

(15) An acceptable vibration method shall be employed in the construction of the tank to prevent voids in the tank access lids, tank bottom, and top and end slabs.

~~700.7 PRE-CAST CONCRETE NON-FIBER REINFORCED PUMP CHAMBERS~~503.7. Pre-Cast Concrete Non-Fiber Reinforced Pump Chambers.

(1) The tank walls and bottom shall be reinforced with six ~~inch~~-by six ~~inch~~-(6 x 6) inch ten (10) gauge wire mesh.

(2) Tank tops shall be reinforced with six by six ~~inch~~-(6 x 6) inch ten (10) gauge wire mesh, a minimum of five (5) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart, and four (4) sections of three-eighths (3/8) inch diameter steel reinforcing bars placed diagonally from the corners to the center of the tank. -The length of the perpendicular reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall. -The length of the four (4) diagonal steel reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall and six (6) inches beyond the closest perpendicular steel reinforcing bar.

(3) The tank walls and bottom thickness shall be at least two and one-half (2½) inches, and top thickness shall be at least three (3) inches.

(4) All reinforcing wire and rods must be covered by at least one-half (1/2) inch of concrete.

(5) An acceptable vibration method shall be employed in the construction of the tank to prevent voids in the tank walls, bottom, and top.

~~700.8 PRE-CAST CONCRETE FIBER REINFORCED PUMP CHAMBERS~~503.8. Pre-Cast Concrete Fiber Reinforced Pump Chambers.

(1) Tank tops shall be reinforced with a minimum of five (5) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart, and four (4) sections of three-eighths (3/8) inch diameter steel reinforcing bars placed diagonally from the corners to the center of the tank. -The length of the perpendicular reinforcing



bars shall be of sufficient length to extend two (2) inches into the sidewall. -The length of the four (4) diagonal steel reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall and six (6) inches beyond the closest perpendicular steel reinforcing bar.

(2) Tank bottoms shall be reinforced with a minimum of seven (7) sections of three-eighths (3/8) inch diameter steel reinforcing bars oriented perpendicular to the tank sidewalls beginning at the center spaced twelve (12) inches apart. -The length of the perpendicular reinforcing bars shall be of sufficient length to extend two (2) inches into the sidewall.

(3) The tank perimeter walls shall be reinforced with three-eighths (3/8) inch diameter steel reinforcing bars located one (1) inch from the tank's top and bottom section seams.

(4) The tank walls and bottom thickness shall be at least two and one-half (2½) inches, and top thickness shall be at least three (3) inches.

(5) All reinforcing wire and rods must be covered by at least one-half (1/2) inch of concrete.

(6) Fiber products used with this reinforcement design must be added during the mixing process in order to achieve even distribution throughout the concrete mixture.

(7) Fiber length must range from at least one (1) to no more than two (2) inches.

(8) The fiber must be specifically manufactured for use as a concrete secondary reinforcement and be a polypropylene fibrillated (two-dimensional fiber mesh network) material.

(9) An acceptable vibration method shall be employed in the construction of the tank to prevent voids in the tank walls, bottom, and top.

~~800 APPENDIX U FIBERGLASS REINFORCED PLASTIC TANKS STANDARD~~504.  
**Fiberglass Reinforced Plastic Tanks Standard.**

Standards describing fiberglass reinforced plastic septic tanks have been adopted ~~assure~~to ensure a quality product of sufficient strength and resistance, capable of fulfilling its intended purpose. -Many of these standards were derived from NBS Voluntary Product Standard PS 15-69, which covers custom contact-molded reinforced polyester chemical resistant process equipment.

~~800.1 GENERAL REQUIREMENTS~~504.1. General Requirements.

The following general requirements are applicable to fiberglass reinforced plastic septic tanks as defined ~~herein~~within this regulation, and approved design standards and structural properties of the same shall be not less than those stated ~~herein~~.

(1) Material

Resins and sealants used in the tank manufacturing process shall be capable of effectively resisting corrosive influences of liquid components of sewage, gases generated by the digestion of sewage, and soil burial. -Materials used shall be formulated to withstand vibration, shock, normal household chemicals, earth, and hydrostatic pressure both when full and empty. -Not less than thirty (30) percent of the total weight of the tank shall be fiberglass reinforcement. For tanks not exceeding a fifteen hundred (1500) ~~gallons~~gallon liquid capacity, the minimum wall thickness shall be three-sixteenths (3/16) inch, provided, however, that isolated small spots may be as thin as eighty (80) percent of the minimum.

(2) Inner Coating

Internal surfaces shall be coated with an appropriate gel coating to provide a smooth, pore-free, watertight surface for fiberglass reinforced plastic parts.

(3) Physical Properties

Tanks shall be so constructed that all parts of the tank shall meet the following requirements:

(a) Ultimate Tensile Strength (Minimum) – Nine thousand (9,000) pounds per square inch (psi) when tested in accordance with ASTM D 638-71a, Standard Method of Test for Tensile Properties of Plastics.

(b) Flexural Strength (Minimum) – Sixteen thousand (16,000) psi when tested in accordance with ASTM D 790-71, Standard Method of Test for Flexural Properties of Plastics.

(c) Flexural Modulus of Elasticity Tangent (Minimum) – Seven hundred thousand (700,000) psi when tested in accordance with ASTM D 790-71, Standard Method of Test for Flexural Properties of Plastics.

(4) Watertight Integrity

Tanks shall be so constructed as to be watertight for the designed life of the tank. -Lids or covers shall be sufficiently tight when installed to preclude the entrance of surface or ground water into the tank.

(5) Longevity

Proof from an independent testing laboratory shall be submitted substantiating a minimum life expectancy of twenty years of service for the intended use of the tank and appurtenant components such as necessary sealants, connective fastenings, resins, etc.

(6) Safety

As a safety measure, provisions shall be made in the construction of septic tank lids or covers to preclude unauthorized entry or removal when the use of the tank necessitates positioning of access openings at or above ground level.

(7) Workmanship

Tanks shall be of uniform thickness and free from defects that may affect their serviceability or durability. Completed tanks ~~are to present~~ shall have a smooth inside finish free of spills, pits, and honeycombs. -Plant quality control shall be sufficient to maintain a high degree of uniformity in tank quality.

~~800.2 SPECIFIC REQUIREMENTS~~ 504.2. Specific Requirements.

Specific requirements for design and construction shall be not less than those specified herein, and shall be in conformity with recognized National Standards for design and construction and in accordance with this regulation.

~~800.3 CAPACITY AND DESIGN LIMITS~~ 504.3. Capacity and Design Limits.

(1) Dimensions

- (a) The inside length of a horizontal cylindrical tank shall be at least two (2) but not more than three (3) times the width.
- (b) The uniform liquid depth shall not be less than four (4) feet.
- (c) At least fifteen (15) percent of the total volume of the tank shall be above the liquid level.
- (d) If tanks of other shapes are proposed, specifications must be submitted to the ~~Division of Onsite Wastewater Management~~ Department for approval.

(2) Inlet

- (a) Provisions shall be made for the building sewer to enter the center of one end of the septic tank two (2) inches above the normal liquid level of the tank.
- (b) A tee shall be constructed as an integral part of the tank to receive the building sewer, or as an alternative, an integrally constructed baffle may be used.
- (c) If baffles are used, suitable integrally fitted sleeves or collars shall be provided in the inlet openings of the tank to provide surface areas sufficient to ensure capability of watertight bonding between the tank and the inlet sewer.
- (d) If the tee or baffle is constructed of plastic material, it shall meet NSF Standard #14 for drain, waste, and vent system application.
- (e) If fiberglass reinforced plastic is used, it shall be of the same constituency as material of which the tank is constructed.
- (f) The inlet tee ~~of~~ or baffle shall extend sixteen (16) inches below the designed liquid level and be placed and secured in a vertical position so as to be watertight and preclude dislodgement during installation, operation, or maintenance activities.

(3) Outlet

- (a) Provisions shall be made for the outlet sewer to receive the discharge from the tank by providing an opening in the center of the end of the tank opposite the inlet, the invert elevation of which shall be at the liquid level of the tank.
- (b) A tee shall be constructed as an integral part of the tank to connect to the outlet sewer; or, as an alternative, an integrally constructed baffle may be used.
- (c) If baffles are used, suitable integrally fitted sleeves or collars shall be provided in the outlet opening of the tank to provide surface areas sufficient to ensure capability of water-tight bonding between the tank and the outlet sewer.
- (d) If the tee or baffle is constructed of plastic material, it shall meet NSF Standard #14 for drain, waste, and vent system application.

(e) If fiberglass reinforced plastic is used, it shall be of the same constituency as material of which the tank is constructed.

(f) The outlet tee or baffle shall extend eighteen inches below the design liquid level and be placed and secured in a vertical position so as to be watertight and preclude dislodgement during installation, operation, or maintenance activities.

(g) A one-~~(1)-inch~~ (1)-inch opening between the top of the inlet tee and top of the tank shall be provided to permit free passage of gas back to the house vent.

#### (4) Access Openings

Openings in the top of the septic tank shall be provided over the inlet and outlet tees or baffles with sufficient area to enable maintenance service to such tees or baffles.

#### (5) Identifying Markings

Fiberglass septic tanks shall be provided with a suitable legend, cast or stamped into the wall at the outlet end, and within six inches of the top of the tank, identifying the manufacturer, and indicating the liquid capacity of the tank in gallons.

### ~~900 APPENDIX V THERMOPLASTIC TANKS STANDARD~~ **505. Thermoplastic Tanks Standard.**

(1) The Department shall approve plans for thermoplastic tanks on an individual basis.

(a) Thermoplastic tanks shall be certified by an accredited third-party to comply with the most recent edition of IAPMO/ANSI Z1000 or CSA B66.

(b) The uniform liquid depth shall be at least three (3) feet.

(c) The inside length of the tank shall be at least two (2) times the inside width of the tank.

(2) If thermoplastic tanks having other dimensional characteristics are proposed, specifications must be submitted to the ~~Division of Onsite Wastewater Management~~ Department for approval, and the proposed design must be demonstrated to provide equivalent effectiveness for storage and distribution to that of concrete or thermoplastic tanks described in this regulation.

(3) Thermoplastic tank manufacturers must renew their product approvals by submitting new applications and plans to the Department every five (5) years and before changing any previously approved plans.

### **600. License to Clean Onsite Wastewater Systems, Self-Contained Toilets, and Other Sewage Holding Systems (i.e., Licensing of Pumper/Haulers).**

600.1. No person shall be responsible for the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems in South Carolina without first applying for, receiving, and subsequently maintaining a valid license to conduct such activities as herein required by the Department. This includes, but is not limited to, nonwater-carried sewage treatment devices and gray water subsurface reuse system.

600.2. Licenses, Applications, and Fees.

(1) License applications, on forms approved by the Department, shall be submitted to the Department's regional environmental office which covers the county where the applicant's primary place of business is located; persons whose primary place of business is out of state must submit their applications to the Department's regional environmental office where it is reasonably anticipated the bulk of the activities sought to be licensed would occur.

(2) The following shall apply to applications submitted by persons engaged in the business of cleaning onsite wastewater systems, self-contained toilets, and other sewage holding systems:

(a) The applicant shall list on the application form each approved septage and sewage disposal facility they intend to use. Written verification of permission to use each disposal facility shall accompany the application.

(b) The applicant shall list on the application form all locations where pumping and transporting vehicles are parked/stored when not in use.

(c) For each annual renewal of an existing license, the person seeking renewal shall submit changes to any information included on the original license application to the Department through an updated application.

(d) Upon request by the Department, each person seeking a new license or renewal of an existing license shall make available for inspection all vehicles and equipment used in the pumping and transporting of septage and sewage.

(e) Additional inspections of vehicles and equipment may be conducted by the Department to ensure compliance with this regulation.

(f) If a licensee replaces, deletes, or adds to their inventory of vehicles used in pumping and transporting septage or sewage, the licensee shall immediately notify the Department for the purpose of updating their application. A vehicle may not be placed into use without prior inspection and approval from the Department.

(3) Prior to receipt of a license authorizing a person to be responsible for the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems, applicants shall complete an examination demonstrating their knowledge and comprehension of this regulation. Any applicant failing to satisfactorily complete the licensing examination may be eligible to retake the examination after thirty (30) calendar days. Applicants who fail to satisfactorily complete their second examination may then be allowed to retake subsequent examinations after a sixty (60)-day waiting period.

(4) A fee shall be assessed for a new license and for the annual renewal of a license.

(a) No person who seeks to be responsible for the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems shall be issued a new license pursuant to this regulation until a fee of one hundred dollars (\$100.00) has been paid to the Department, except that a person applying both for this license (i.e., pumper/hauler license) and an installers license (i.e., license to construct or repair systems) shall pay a fee of only fifty dollars (\$50.00) for the license to clean onsite wastewater systems, self-contained toilets, and other sewage holding systems.

(b) Every license issued by the Department under this regulation shall be valid for a period of one (1) year, unless otherwise suspended or revoked.

(c) Each licensee must pay an annual renewal fee of one hundred dollars (\$100.00), except that a person applying to renew both this license (i.e., pumper/hauler license) and an installers license (i.e., license to construct or repair systems) shall pay a fee of only fifty dollars (\$50.00) for the renewal of the license to clean onsite wastewater systems, self-contained toilets, and other sewage holding systems.

(d) Annual renewal fees shall be due on a date not less than thirty (30) calendar days from the billing date. A penalty charge of thirty dollars (\$30.00) shall be assessed for license fees that are past due. A second penalty of thirty dollars (\$30.00) shall be assessed for license fees sixty (60) days past due.

(e) Expiration of a license shall occur when the license fee is ninety (90) calendar days past due. No person with an expired license may be engaged in the business of cleaning onsite wastewater systems, self-contained toilets, and other sewage holding systems.

(f) An expired license shall not be renewed. Any person with an expired license may apply for a new license and must meet all applicable requirements for a new license.

(5) Licenses issued in accordance with this regulation shall not be transferable.

### 600.3. Further Governmental Restriction Not Prohibited.

Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons cleaning onsite wastewater systems, self-contained toilets, and other sewage holding systems.

### 600.4. License Not Required.

Public or private sewer providers using pumping and transporting vehicles for the sole purpose of maintaining their sewer systems shall be exempt from the licensing requirements of Section 600 of this regulation. This exemption does not apply to public or private sewer providers using pumping and transporting vehicles to provide cleaning services to the public.

## **601. Vehicles, Equipment, and Practices.**

601.1. All vehicles and equipment used to remove and transport septage and sewage shall be maintained in a manner that will prevent the occurrence of leaks, spills, and other nuisance conditions. All vehicles shall be properly identified.

(1) Hoses, valves, tanks, and other equipment must be maintained in good repair and working order.

(2) All vehicles used to transport septage and sewage must bear the company name and license number in a prominent place on the sides and rear of each vehicle, using letters and numbers that are at least four (4) inches in height.

601.2. The cleaning of septic tanks and similar units and the pumping and transporting of septage and sewage shall be done in a manner that is safe and does not create a hazard to the public health and the environment. The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents (solids, semi-solids, and liquids).

601.3. Disposal of septage and sewage shall be allowed only at facilities approved by the Department. A licensee may dispose of septage and sewage only at those approved facilities designated by the licensee's application and any renewals or updates of the application.

(1) Discharge of septage and sewage shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.

(2) Discharge of septage and sewage into a public sewage collection system, without the consent and permission of the owner/operator of such system, is prohibited.

(3) The storage of domestic wastewater, sewage, or septage in underground or partially buried tanks/subsurface containment units, is prohibited.

601.4. A licensee shall adequately supervise employees and ensure that onsite wastewater systems, self-contained toilets, and other sewage holding systems are cleaned in accordance with this regulation and other applicable regulations, permits, and standards issued by the Department.

## **602. Records of Operation.**

602.1. Each person licensed to clean onsite wastewater systems, self-contained toilets, and other sewage holding systems is required to maintain accurate records of cleaning and transporting activities.

(1) Records shall be kept current and shall include at least the following information for each cleaning/transporting activity:

(a) Date and time of septage and sewage removal.

(b) Name and address of residence or facility where septage and sewage was removed. Where one or more self-contained toilets are cleaned at one location (e.g., construction site, special event, etc.), one recorded entry per location will be acceptable.

(c) Quantity and type of septage and sewage removed (e.g., grease trap, septic tank, self-contained toilet, etc.). Where one or more self-contained toilets are cleaned at one location, quantity may be expressed by the total number of units cleaned at that location.

(d) Date, time, and location of septage and sewage disposal.

602.2. Records shall be made available for inspection by the Department upon request. All licensees must retain their records for a minimum of two (2) years.

## **700. License to Construct or Repair Onsite Wastewater Systems (i.e. Licensing of Installers).**

700.1. License Requirements and Fees.

(1) No person shall be responsible for the construction or repair of onsite wastewater systems in South Carolina without first applying for, receiving, and subsequently maintaining a valid license to conduct such activities as herein required by the Department, provided that a person may construct or repair an onsite wastewater system for personal use at the person's residence without obtaining a license.

(2) Licenses, Applications, and Fees

(a) License applications, on forms approved by the Department, shall be submitted to the Department's regional environmental office which covers the county where the applicant's primary place of business is located; persons whose primary place of business is out of state must submit their applications to the Department's regional environmental office where it is reasonably anticipated the bulk of the activities sought to be licensed would occur.

(b) Prior to receipt of a license authorizing a person to be responsible for the construction or repair of an onsite wastewater system, the applicant shall complete an examination demonstrating the applicant's knowledge and comprehension of this regulation. Any applicant failing to satisfactorily complete the licensing examination may be eligible to retake the examination after thirty (30) calendar days. Applicants who fail to satisfactorily complete their second examination may then be allowed to retake subsequent examinations after a sixty (60) calendar day waiting period.

(c) Each license requires fees for the initial license issuance and annual renewal. The required fees vary depending on the tier of licensure sought. The required initial license and renewal fees for each tier are as follows:

(i) Tier 1 – One hundred dollar (\$100.00) fee

(ii) Tier 2 – One hundred dollar (\$100.00) fee

(iii) Tier 3 – Two hundred dollar (\$200.00) fee

(d) Every license issued by the Department under this regulation shall be valid for a period of one (1) year, unless otherwise suspended or revoked.

(e) Renewal fees shall be due on a date not less than thirty (30) calendar days from the billing date. A penalty charge of thirty dollars (\$30.00) shall be assessed for license fees that are past due. A second penalty of thirty dollars (\$30.00) shall be assessed for license fees sixty (60) days past due.

(f) Expiration of a license shall occur when the license fee is ninety (90) calendar days past due. No person with an expired license may be engaged in the business of constructing and repairing onsite wastewater systems, sewage holding systems, or self-contained toilets.

(g) An expired license shall not be renewed. Any person with an expired license may apply for a new license and must meet all applicable requirements for a new license.

(h) Licenses issued in accordance with this regulation shall not be transferable.

### (3) Further Governmental Restriction Not Prohibited

Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons constructing or repairing onsite wastewater systems.

### (4) Eligibility

Only a person who meets the following criteria is eligible to be licensed as an onsite wastewater systems installer:

(a) Applicants to be a Tier 1 or Tier 2 installer must:



(i) Pass an examination administered by the Department with a minimum score of eighty (80) percent ; and

(ii) Submit a properly completed application with supporting documents including proof of continuing education units (CEUs) for any renewal; and

(iii) Pay applicable fees.

(b) Applicants to be a Tier 3 installer must:

(i) Qualify as either:

(A) A licensed onsite wastewater system installer who has been actively installing for three (3) years immediately preceding the date of application with no pending or prior disciplinary or enforcement action involving onsite wastewater system contracting; or

(B) An onsite wastewater system installer licensee from another state with affidavits from the regulatory authority demonstrating five (5) years of experience with no pending or prior disciplinary or enforcement action involving onsite wastewater system contracting; and

(ii) Pass an examination administered by the Department with a minimum score of eighty (80) percent;

(iii) Submit a properly completed application with supporting documents (if required);

(iv) Submit proof of continuing education units (CEUs) for any renewal;

(v) Submit proof of required Bond and insurance coverage; and

(vi) Pay applicable fees.

### **701. Continuing Education and Training.**

701.1. All installers are required to complete the necessary number of continuing education units (CEUs) every two (2) years from the date of licensing to renew the installer license. CEUs must be obtained from the Department-approved list of courses and providers.

701.2. The Department will not renew a license for any installer who has failed to meet the training and education requirements for the previous licensing period.

701.3. If any installer completes more than the required hours in a licensing period, as many as three (3) hours can be rolled over and credited to the requirement for the next licensing period.

701.4. The required CEUs for each Tier for every two (2) year licensing period are as follows:

(1) Tier 1: Eight (8) hours

(2) Tier 2: Twelve (12) hours

(3) Tier 3: Eighteen (18) hours

701.5. Implementation of CEU Requirement.

The requirement for CEUs will enter into effect for any initial or renewal licensing period beginning on or after the date three (3) years following the effective date of this regulation.

**702. Practice, Procedure, and Quality Control.**

702.1. Practices: All Installers.

(1) A licensee shall adequately supervise employees and ensure that all onsite wastewater systems for which the licensee is responsible are constructed and repaired in accordance with this regulation and other applicable regulations, permits, and standards issued by the Department. Onsite wastewater systems must be installed pursuant to and in compliance with permits to construct issued by the Department.

(2) An installer does not have the authority to make any changes to a construction or repair project that deviate from an issued permit without first obtaining Department approval.

(3) Installers do not have the authority to subcontract unlicensed installers to conduct work under their licenses.

(4) The specific scope of activities authorized under each tier of licensure is set forth in this regulation's definition of "licensed onsite wastewater system installer." A licensed installer is prohibited from performing any construction or repair that is inconsistent with the scope of activities authorized under the licensee's applicable tier.

702.2. Onsite Wastewater System Installer Self-Inspections.

(1) All Tier 3 installers and Tier 1 or Tier 2 installers directed to perform self-inspections under Section 104.3(1)(c) shall provide the Department the opportunity to perform a final inspection and shall arrange with the Department in advance a time for the final inspection of an onsite wastewater system that is being installed. If, after thirty (30) minutes of that arranged time, the Department representative has not arrived for the inspection, the installer shall:

(a) Inspect the system;

(b) Record the findings on a form approved by the Department; and

(c) Cover the system.

(2) It shall be considered a violation of this regulation to conduct a self-inspection of a system or cover a system without first scheduling a final inspection time with the Department and waiting the full thirty (30) minutes of the arranged time for the Department to conduct a final inspection.

(3) The installer shall not cover a system or seek Department final approval for a system that, upon inspection, is determined not to be in compliance with the permit to construct.

(4) Documentation of system installation and self-inspection using the Department-approved format, including the installer's signature and license number, as well as the system measurements and other specified information, shall be submitted to the Department within two (2) business days of the final self-inspection date. A copy of this document(s) must also be furnished to the property owner for whom the

system was installed. Failure to submit to the Department the required documentation within the required timeframe shall be considered a violation of this regulation.

(5) An onsite wastewater system shall not be placed into operation unless and until the Department has issued a final approval to operate.

#### 702.3. Quality Control: Installers.

The Department will conduct random final inspections on no less than three (3) percent annually of the total number of systems installed during the preceding fiscal year. The Department will also conduct field reviews of final installation and inspection documentation submitted by the installer and compare them to the actual installations those documents represent.

### **703. Bonding and Insurance Requirements: Tier 3 Installers.**

703.1. Proof of both insurance and bond coverage shall be furnished to the Department prior to licensure as a Tier 3 installer and upon license renewal.

703.2. An onsite wastewater system Tier 3 installer shall be responsible for obtaining and maintaining both insurance and bond coverage for as long as the installer is licensed as a Tier 3 installer.

703.3. Failure to maintain both insurance and bond coverage shall result in the suspension or revocation of the Tier 3 installer license.

### **704. Transition to Tiered Licensure.**

Upon the effective date of the tiered licensure provisions (Section 700) of this regulation, all installers licensed as master contractors under the previous R.61-56.2 shall be considered to hold a Tier 3 license, and all other installers licensed under the previous R.61-56.1 shall be considered to hold a Tier 2 license. The Tier 3 or Tier 2 license shall expire upon the original expiration date of the license held under R.61-56.1 or R.61-56.2, as applicable, unless the license is renewed in accordance with the provisions of Section 700.1 of this regulation.

### **800. Enforcement.**

800.1. Violations of this regulation shall be punishable in accordance with S.C. Code Sections 44-1-150, 44-55-825, 48-1-320, and 48-1-330. The Department may seek enforcement, suspend and revoke permits and licenses, issue civil penalties, and order corrective action in accordance with law. The Department shall have the authority to suspend civil penalties if the violations of this regulation are corrected in a period of time established by the Department.

800.2. Deviation from the installation design and conditions in onsite wastewater permits to construct and approvals to operate may be considered a violation of this regulation.

800.3. Suspension and revocation of permits to construct and approvals to operate an onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system.

(1) The Department may temporarily suspend a permit to construct or approval to operate for a violation of this regulation.

(2) The Department may revoke a permit to construct or approval to operate for a violation of this regulation. The Department will revoke a permit or approval when:

(a) The onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system is malfunctioning and sewage is discharging to the ground or the groundwater, the holder of the permit has received notice that the system is malfunctioning, the Department has given notice that repairs must be made within a reasonable period of time, the holder of the permit has not made the repairs, and the system continues to discharge sewage to the ground or the groundwater; or

(b) The onsite wastewater system, nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system is malfunctioning and sewage is discharging to the ground or the groundwater, the holder of the permit has received notice that the system is malfunctioning, the Department has given notice that a wastewater treatment facility is accessible for connection.

#### 800.4. Enforcement against persons licensed to construct, clean, and/or repair onsite wastewater systems.

(1) A licensee shall be subject to suspension, revocation, and civil penalties as provided in Sections 800.1 and 800.4(2) for the construction, cleaning, or repair of onsite wastewater systems, self-contained toilets, and other sewage holding systems in violation of state laws, regulations, and standards.

In determining whether a license should be suspended or revoked, the Department may consider such factors as the seriousness of a violation and whether a violation is a repeat of previous violations, among any other relevant factors. The interference by a licensee or their employees with a representative of the Department in performing their duties with respect to this regulation shall constitute grounds for revocation of license.

(2) Violation of an onsite wastewater system installation permit or any provisions of this regulation by a licensed onsite wastewater system installer or person licensed to clean onsite wastewater systems must be enforced as follows:

(a) First offense violations may be enforced under S.C. Code Section 44-1-150 or by suspension of the license for a period not to exceed one (1) year.

(b) Second offense violations shall be enforced under S.C. Code Section 44-1-150 or by suspension of the license for a period not to exceed three (3) years.

(c) Third offense violations shall be enforced under S.C. Code Section 44-1-150 or by permanent revocation of the license.

(3) The Department may suspend licenses for failure to pay a civil penalty required pursuant to a Department order.

800.5. Prior to suspending or revoking a permit to construct, approval to operate, or license, the Department shall provide written notification to the person stating the basis for suspension or revocation. A permit to construct, approval to operate, or license may be summarily suspended by the Department without prior warning if the Department determines there is an immediate threat to public health.

#### **801. Severability Clause.**

Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

~~61-56.1. — License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets.~~

#### ~~SECTION I. — PURPOSE~~

~~To regulate persons engaged in the business of constructing, repairing, or cleaning onsite sewage treatment and disposal systems and cleaning self-contained toilets, to protect public health and the environment.~~

#### ~~SECTION II. — DEFINITIONS~~

~~— A. Cleaning — the removal and transportation of septage from an onsite sewage treatment and disposal system or self-contained toilet to an approved disposal location.~~

~~— B. Construct — the installation or repair of an onsite sewage treatment and disposal system.~~

~~— C. Department — the South Carolina Department of Health and Environmental Control and its authorized representatives.~~

~~— D. License — the official document issued by the Department authorizing a person to be engaged in the business of construction, repair, or cleaning of onsite sewage treatment and disposal systems or the cleaning of self-contained toilets.~~

~~— E. Onsite Sewage Treatment and Disposal System — a system, or any part of a system, designed to treat and dispose of, or store sewage. Examples include septic tank systems, sewage holding systems, and similar devices.~~

~~— F. Person — any individual, firm, company, corporation, or association.~~

~~— G. Revocation — the permanent withdrawal of rights and privileges granted by a license.~~

~~— H. Self-Contained Toilet — a single or multiple unit toilet and holding tank combination.~~

~~— I. Septage — the mixture of solids and liquids removed during cleaning of a septic tank, grease trap, or any other part of an onsite sewage treatment and disposal system, holding system, or self-contained toilet which receives domestic sewage; includes the liquid, solid and semi-solid materials which settle to the bottom of transport containers.~~

~~— J. Sewage — any liquid waste containing animal, vegetable, or chemical matter in suspension or solution from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains or other water-using fixtures.~~

~~— K. Suspension — the temporary or indefinite withdrawal or cessation of rights and privileges granted by a license.~~

#### ~~SECTION III. — LICENSE REQUIRED~~

~~— A. No person may engage in the business of and be responsible for the construction, repair, or cleaning of onsite sewage treatment and disposal systems or the cleaning of self-contained toilets in South Carolina~~

without first applying for, receiving, and subsequently maintaining a valid license to conduct such activities, as herein required by the Department; provided, that a person may construct or repair an onsite sewage treatment and disposal system for personal use at his residence without obtaining a license.

~~— B. Licenses, Applications, and Fees.~~

~~— 1. License applications, on forms approved by the Department, shall be submitted to the Department in the county where the applicant's primary place of business is located; provided, persons residing out of state must submit their applications to the Department in the South Carolina county where it is reasonably anticipated the bulk of the activities sought to be licensed would occur.~~

~~— 2. The following shall apply to applications submitted by persons engaged in the business of cleaning onsite sewage treatment and disposal systems or self-contained toilets:~~

~~— a. The applicant shall list on the application form each approved septage disposal facility they intend to use. Written verification of permission to use each disposal facility shall accompany the application.~~

~~— b. For each renewal of an existing license, the person seeking renewal shall submit to the Department an updated application.~~

~~— c. Upon request by the Department, each person seeking a new license or renewal of an existing license shall make available for inspection all vehicles and equipment used in the pumping and transporting of septage.~~

~~— d. Additional inspections of vehicles and equipment may be conducted by the Department to ensure compliance with this regulation.~~

~~— e. If a licensee replaces, deletes, or adds to his inventory of vehicles used in pumping and transporting septage, the licensee shall immediately notify the Department for the purpose of updating his application.~~

~~— 3. Prior to receipt of a license authorizing a person to engage in the business of and be responsible for the construction or repair of an onsite sewage disposal system, the applicant shall complete an examination, demonstrating his knowledge and comprehension of the onsite sewage treatment and disposal regulation (Regulation 61-56, 1976 Code of Laws of South Carolina, as amended). Any applicant failing to satisfactorily complete the licensing examination may be eligible to retake the examination after 30 days. If the applicant fails to satisfactorily complete his second examination, he may then be allowed to retake subsequent examinations after a 60-day waiting period.~~

~~— 4. Persons engaged only in the business of cleaning onsite sewage treatment and disposal systems, holding systems, or self-contained toilets, shall be exempt from the aforementioned examination, and shall be issued a license upon satisfactory compliance with this regulation.~~

~~— 5. A fee shall be assessed for a new license and for the annual renewal of license.~~

~~— a. No person engaged in the business of either constructing and repairing or the cleaning of onsite sewage treatment and disposal systems shall be issued a new license pursuant to this regulation until a fee of one hundred (\$100) dollars has been paid to the Department; provided, persons engaged in the dual business of constructing/repairing and cleaning systems shall pay a fee of one hundred fifty (\$150) dollars.~~

~~Every license issued by the Department under this regulation shall be valid for a period of one year, unless otherwise suspended or revoked.~~

~~\_\_\_\_\_ b. Each licensee must pay an annual renewal fee of one hundred (\$100) dollars, or, for a dual license, one hundred fifty (\$150) dollars, to the Department.~~

~~\_\_\_\_\_ c. Annual renewal fees shall be due on a date not less than thirty (30) days from the billing date. A penalty charge of \$30.00 shall be assessed for license fees that are past due. A second penalty of \$30.00 shall be assessed for license fees sixty (60) days past due.~~

~~\_\_\_\_\_ d. Expiration of a license shall occur when the license fee is ninety (90) days past due. No person with an expired license may be engaged in the business of either constructing and repairing or cleaning onsite sewage treatment and disposal systems, sewage holding systems, or self-contained toilets.~~

~~\_\_\_\_\_ e. an expired license shall not be renewed. Any person with an expired license may apply for a new license and must meet all applicable requirements for a new license.~~

~~\_\_\_\_\_ 6. Licenses issued in accordance with this regulation shall not be transferable.~~

~~\_\_\_\_\_ C. Further Governmental Restrictions Not Prohibited.~~

~~Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons constructing, repairing, or cleaning onsite sewage treatment and disposal systems or cleaning self-contained toilets.~~

#### ~~SECTION IV. VEHICLES, EQUIPMENT, AND PRACTICES~~

~~\_\_\_\_\_ A. All vehicles and equipment used to remove and transport septage shall be maintained in a manner that will prevent the occurrence of leaks, spills, and other nuisance conditions. All vehicles shall be properly identified.~~

~~\_\_\_\_\_ 1. Hoses, valves, tanks, and other equipment must be maintained in good repair and working order.~~

~~\_\_\_\_\_ 2. All vehicles used to transport septage must bear the company name and license number in a prominent place on the sides and rear of each vehicle, using letters and numbers that are at least four (4) inches in height.~~

~~\_\_\_\_\_ B. The cleaning of septic tanks and similar units, and the pumping and transporting of septage shall be done in a manner that is safe and does not create a nuisance or health hazard. The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents.~~

~~\_\_\_\_\_ C. Disposal of septage shall be allowed only at facilities approved by the Department. A licensee may dispose of septage only at those approved facilities designated by his application and any renewals or updates of his application.~~

~~\_\_\_\_\_ 1. Discharge of septage shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.~~

~~\_\_\_\_\_ 2. Discharge of septage into a public sewage collection system, without the consent and permission of the owner/operator of such system, is prohibited.~~

~~— D. A licensee shall adequately supervise employees and ensure that all systems for which the licensee is responsible shall be constructed, repaired, and cleaned in accordance with Regulation 61-56 and other applicable regulations, permits, and standards issued by the Department.~~

#### ~~SECTION V. RECORDS OF OPERATION~~

~~— A. Each person licensed to clean onsite sewage treatment and disposal systems and self-contained toilets is required to maintain accurate, written records of cleaning and transporting activities.~~

~~— 1. Records shall be kept current and shall include at least the following information for each cleaning/transporting activity:~~

~~— a. Date and time of septage removal.~~

~~— b. Name and address of residence or facility where septage was removed. Where one or more self-contained toilets are cleaned at one location (construction site, special event, etc.), one recorded entry per location will be acceptable.~~

~~— c. Quantity and type of septage removed (i.e., grease trap, septic tank, self-contained toilet). Where one or more self-contained toilets are cleaned at one location, quantity may be expressed by the total number of units cleaned at that location.~~

~~— d. Date, time, and location of septage disposal.~~

~~— B. Records shall be made available for inspection by the Department upon request. Records must be retained for a minimum of two (2) years.~~

#### ~~SECTION VI. SUSPENSION/REVOCATION OF LICENSE~~

~~— A. A licensee shall be subject to suspension and revocation of license and to penalties, as provided in Section VIII for the construction, repair, or cleaning of onsite sewage treatment and disposal systems, or cleaning of self-contained toilets for which he is responsible in violation of State Laws, Regulations, and Standards.~~

~~In determining whether a license should be suspended or revoked, the Department may consider such factors as the seriousness of a violation and whether a violation is a repeat of previous violations, among any other relevant factors. The interference by a licensee or his employees with a representative of the Department in performing his duties with respect to this regulation shall constitute grounds for revocation of license. Only the person responsible for supervision and enforcement of this regulation in each county or health district is authorized to initiate action to revoke the license on the grounds of interference.~~

~~— B. Any person whose license is revoked shall not be eligible to apply for relicensing within one year from the date of revocation. Any person whose license has previously been revoked and who obtains a subsequent license and violates the provisions of this regulation, which results in the revocation of his license for the second time, shall not be granted another license.~~

~~— C. Prior to such action, the Department shall provide written notification to the licensee, stating the basis for suspension or revocation, and advise the licensee that the license shall be suspended or revoked on the fifteenth (15th) day following receipt of the written notification, unless a Petition for Administrative Review, complying with the requirements of Regulation 61-72, is filed with the Department, within fifteen~~



~~(15) days of receipt. All hearings shall be conducted in accordance with the Administrative Procedures Act and Regulation 61-72.~~

~~—D. A license may be summarily suspended by the Department pending a hearing, as herein provided, if the licensee acts in such a manner as to pose an immediate threat to public health. In the case of a summary suspension, the licensee shall be given a hearing as soon as possible after the Department receives a written request for a hearing.~~

#### ~~SECTION VII. EXPIRATION OF LICENSE~~

~~The expiration of a license due to failure to pay the required annual renewal fee, plus applicable late charges, shall not constitute a contested case and shall not create a right to a hearing pursuant to the South Carolina Administrative Procedures Act.~~

#### ~~SECTION VIII. PENALTIES~~

~~Violations of this regulation shall be punishable in accordance with Sections 44-1-150, 48-1-320, and 48-1-330, of the 1976 Code of Laws of South Carolina, as amended.~~

#### ~~SECTION IX. 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 regulation shall not be affected thereby. [Repealed].~~

~~61-56.2. Licensing Of Onsite Wastewater System Master Contractors.~~

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~~100. PURPOSE~~

~~The purpose of this regulation is to protect public health and the environment by ensuring the competence of onsite wastewater system master contractors. Proper construction, installation and approval practices for onsite wastewater systems are essential for the safe treatment and disposal of domestic wastewater.~~

~~200. DEFINITIONS~~

~~ALTERNATIVE SYSTEM—A system incorporating design modifications of the proposed subsurface wastewater infiltration area (drainfield) or absorption trench geometry for the purpose of achieving compliance with required setbacks and offset to the zone of saturation and/or restrictive horizons. No such system shall be utilized unless the Department has established a specific standard.~~

~~ALTERNATIVE TILEFIELD PRODUCTS—Products specifically designed to replace or eliminate the aggregate typically utilized in soil absorption trenches. Such products must be approved for use by the Department and must adhere to required equivalency values established herein.~~

~~APPLICANT—A property owner, general contractor or agent representing the property owner, or a developer who seeks a permit to construct and operate an onsite wastewater system.~~

~~BOND—A sum of money set aside (Surety Bond) to insure completion of work under a contract.~~

~~CONVENTIONAL SYSTEM—An onsite wastewater system that utilizes a network of conventional absorption trenches installed in the naturally occurring soil for the treatment and disposal of domestic wastewater.~~

~~CONSTRUCT—The installation or repair of an onsite sewage treatment and disposal system.~~

~~DEPARTMENT—The South Carolina Department of Health and Environmental Control (DHEC).~~

~~DOMESTIC WASTEWATER—The untreated liquid and solid human body waste and the liquids generated by water using fixtures and appliances, including those associated with food service operations. For the purposes of this regulation, domestic wastewater shall not include industrial process wastewater.~~

~~EFFLUENT—The liquid discharged from a septic tank, effluent pump station, or other sewage treatment device.~~

~~EXISTING SYSTEM—An onsite wastewater system, which has received final construction approval or has been serving a legally occupied residence or structure.~~

~~FAILING ONSITE WASTEWATER SYSTEM—An onsite wastewater system that is discharging effluent in an improper manner or has ceased to function properly.~~

~~LICENSE—The official document issued by the Department authorizing a person to provide services for installation, repair, modification or final inspection and approval of onsite wastewater systems that they install.~~

~~LICENSED SEPTIC TANK CONTRACTOR—A person authorized under Regulation 61-56.1, License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets, to construct, repair or clean onsite sewage disposal systems or self-contained toilets.~~

~~ONSITE WASTEWATER SYSTEM—A system, generally consisting of a collection sewer, septic tank(s), and soil absorption trenches (subsurface wastewater infiltration area), designed to treat and dispose of domestic wastewater through a combination of natural processes that ultimately result in effluent being transmitted through the soil, renovated, and ultimately discharged to groundwater.~~

~~ONSITE WASTEWATER SYSTEM MASTER CONTRACTOR—A person authorized under this regulation to construct, repair, modify, inspect and issue final construction approval for onsite wastewater systems that they install.~~

~~PERMIT—A written document issued by the Department authorizing the construction and operation of an onsite wastewater system under Regulation 61-56. The construction and operation permit survives the life of the onsite wastewater system that it authorizes.~~

~~REPAIR—Any work performed on an existing onsite wastewater system for the purposes of correcting a surface failure or other unauthorized discharge, enhancing system performance, or relocating the entire system or system components, provided there are no changes in use that would impact the existing system.~~

~~REVOCAATION—The permanent withdrawal of rights and privileges granted by a license.~~

~~SEPTIC TANK—A watertight, covered receptacle designed and constructed to receive the discharge of domestic wastewater from a building sewer, separate solids from the liquid, digest organic matter, store digested solids through a period of detention and biological conditioning of liquid waste, and allow the effluent to discharge for final treatment and disposal.~~

~~SOIL ABSORPTION TRENCH—A trench installed in the naturally occurring soil that is utilized for the treatment and disposal of domestic wastewater. A conventional trench is characterized by the following: (a) at least twenty three (23) inches in depth; (b) thirty six (36) inches in width; (c) filled with aggregate so that at least six (6) inches is beneath the distribution pipe, with at least five (5) inches on both sides of the pipe, and at least three (3) inches covering the pipe; and (d) at least nine (9) inches of backfill. Other trench configurations are specified in Regulation 61-56 Appendices of Standards for Onsite Wastewater Systems.~~

~~STANDARD—A group of requirements developed by the Department that specifies the minimum site conditions and design criteria necessary for the approval of a specific type of onsite wastewater system (i.e., alternative system) that differs from a conventional system. A standard may also address minimum design criteria for certain components of onsite wastewater systems as well as methodologies for determining system sizing.~~

~~SUBSURFACE WASTEWATER INFILTRATION AREA (DRAINFIELD)—A specific area where a network of soil absorption trenches or other devices of sewage application are installed to provide the final treatment and disposal of effluent.~~

~~SURETY AGREEMENT—Through this agreement, the surety agrees to uphold—for the benefit of the obligee—the contractual promises (obligations) made by the principal if the principal fails to uphold its promises to the obligee.~~

~~SUSPENSION—The temporary or indefinite withdrawal of rights and privileges granted by a license.~~

### 300. ELIGIBILITY

~~An onsite wastewater systems contractor currently licensed under R. 61.56.1, who meets the following criteria, is eligible to be licensed as an onsite wastewater systems master contractor:~~

~~—(1) a licensed onsite wastewater systems contractor who has been actively installing for three (3) years immediately preceding the date of application with no disciplinary action pending involving septic tank contracting; or~~

~~—(2) an onsite wastewater systems contractor licensee from another state with affidavits from the regulatory authority supporting five (5) years of experience with no pending disciplinary action involving septic tank contracting; and~~

~~—(3) the ability to pass an examination administered by the Department with a minimum score of eighty percent (80 %); and~~

~~—(4) a properly completed application with supporting documents (if required); and~~

~~— (5) proof of required bond and insurance coverage; and~~

~~— (6) payment of applicable fees.~~

#### ~~400. CONTINUING EDUCATION AND TRAINING~~

~~400.1. The master contractor will be required to complete six (6) contact hours of training and continuing education every year from the date of licensing to renew the master contractor license. The Department will provide a listing of approved training providers and courses to meet this requirement.~~

~~400.2. The master contractor who fails to meet the training and continuing education requirements will lose the rights and privileges granted under that license until such time as these requirements have been met.~~

~~400.3. If the master contractor fails to meet the training and education requirement within the next licensing period, the license will be considered void.~~

~~400.4. If a master contractor completes more than the required six (6) hours in a licensing period, as many as three (3) hours can be rolled over into the requirement for the next licensing period.~~

#### ~~500. PRACTICE, PROCEDURE AND QUALITY CONTROL~~

##### ~~500.1. Practice~~

~~— (1) Onsite wastewater systems installed and approved by master contractors must be installed pursuant to, and in compliance with, construction and operation permits issued by the Department.~~

~~— (2) The master contractor does not have the authority to change an issued permit without first obtaining Department approval.~~

~~— (3) A master contractor authorized under this regulation will be able to install, inspect and approve any system permitted by the Department under Regulation 61-56 that the master contractor installs himself except those systems designed by a Licensed Professional Engineer.~~

~~— (4) The master contractor, after giving the Department the opportunity to do a final inspection of the installed system, may record and document the necessary measurements on a form approved by the Department, issue final approval, and cover the installation.~~

~~— (5) The as-built drawings, along with the master contractor's signature and license number, must be submitted to the Department, with a copy being provided to the property owner for whom the system was installed.~~

##### ~~500.2. Procedure~~

~~— (1) The master contractor shall arrange a time, for the final inspection of an onsite wastewater system that is being installed, with a representative of the Department. If, after thirty (30) minutes of that arranged time, the Department representative has not arrived for the inspection, the master contractor may:~~

~~— (a) inspect the system;~~

~~— (b) record the findings on a form approved by the Department;~~

- ~~—(c) grant final construction approval to the installation; and~~
- ~~—(d) cover the system.~~

~~—(2) The as built drawings containing the required measurements and other documentation shall be submitted to the Department no later than the close of business on the next business day. A copy of this document(s) must also be furnished to the property owner for whom the system was installed.~~

### ~~500.3. Quality Control~~

~~The Department is required to conduct random final inspections on no less than three percent (3%) annually of the total number of systems installed during the preceding fiscal year. The Department will also conduct field reviews of the as built drawings submitted by the master contractor compared with the actual installations those drawings represent.~~

## ~~600. BONDING AND INSURANCE REQUIREMENTS~~

~~600.1. Proof of both insurance and bond coverage shall be furnished to the Department prior to licensure as a master contractor and upon annual license renewal.~~

~~600.2. The onsite wastewater system master contractor shall be responsible for obtaining and maintaining both insurance and bond coverage for as long as the contractor is operating as a master contractor.~~

~~600.3. Failure to maintain both insurance and bond coverage shall result in the suspension or revocation of the master contractor license.~~

## ~~700. APPLICATION AND LICENSE FEES~~

~~700.1. The application fee for an onsite wastewater systems master contractor license shall be seventy five dollars (\$75.00); this fee must be submitted with the completed application. The application fee is non-refundable.~~

~~700.2. Upon successful completion of the application and examination requirements, each licensee shall pay a licensing fee of two hundred dollars (\$200.00).~~

~~700.3. The annual renewal fee for each license shall be two hundred dollars (\$200.00).~~

~~700.4. Failure to pay the annual renewal fee shall result in the suspension or revocation of the master contractor license.~~

~~700.5. Licenses issued in accordance with this regulation shall not be transferable.~~

## ~~800. ENFORCEMENT~~

~~800.1. Deviation from the installation design and conditions in onsite wastewater permits may be considered a violation of this regulation.~~

~~800.2. Violation of an onsite wastewater system installation permit, or any provisions of this regulation, by a master contractor, must be enforced in accordance as follows:~~

~~—(1) First offense violations may be enforced under S.C. Code Section 44-1-150 or by suspension of the installer's license for a period not to exceed one (1) year.~~

~~—(2) Second offense violations may be enforced under S.C. Code Section 44-1-150 or by suspension of the installer's license for a period not to exceed three (3) years.~~

~~—(3) Third offense violations may be enforced under S.C. Code Section 44-1-150 or by permanent revocation of the installer's license.~~

~~800.3. A Department decision involving the issuance, denial, renewal, modification, suspension, or revocation of a permit or license 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.~~

#### ~~900. SEVERABILITY CLAUSE~~

~~This regulation is issued under the authority of Sections 44-1-140(11), 44-1-150, 44-55-827, and 48-1-10 et seq. of the 1976 Code of Laws, as amended. It shall be enforced in accordance with interpretations and public health reasons approved by the Department. Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby. [Repealed].~~

## ATTACHMENT B

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

#### Notice of Drafting:

The South Carolina Department of Health and Environmental Control (“Department”) proposes amending R.61-56, Onsite Wastewater Systems. The Department also proposes amending requirements of R.61-56.1, License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets, and R.61-56.2, Licensing of Onsite Wastewater System Master Contractors, and merging R.61-56.1 and R.61-56.2 into R.61-56. This will entail repealing R.61-56.1 and R.61-56.2 and adding their provisions, as amended, to R.61-56. Additionally, the Department proposes to merge R.61-55, Septic Tank Site Evaluation Fees, into R.61-56. This will entail repealing R.61-55 and adding its provisions, as amended, to R.61-56.

Interested persons may submit comment(s) on the proposed amendments and repeals to David R. Vaughan, Director, Division of Onsite Wastewater Management, Rabies Prevention, and Enforcement, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201 or via email at [vaughadr@dhec.sc.gov](mailto:vaughadr@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on April 27, 2020, the close of the drafting comment period.

#### Synopsis:

Pursuant to R.61-56, the Department helps to ensure the safe treatment and disposal of domestic wastewater to protect the health of families and communities. In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems).

The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program.

The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments will include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program.

In the interest of efficiency, the Department proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 will include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56.

The Department may also include corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments and repeals.



**ATTACHMENT C**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**R.61-56, Onsite Wastewater Systems**

**As of the April 27, 2020, close of the Notice of Drafting comment period:**

<b>Name</b>	<b>Section</b>	<b>Department Response</b>
<b>Michael S. Traynham</b>	<b>R.61-56.102.5(3) New section 103.1.(5)(c)</b>	Both the existing R.61-56 and proposed revisions to the regulation require financial assurances for operation, maintenance, and replacement of systems components for community or cluster systems owned by a private entity or person. Financial assurance agreements are entered into in tandem with the Department’s Bureau of Water (“BOW”) using established procedures. The Department has determined that this approach continues to be effective for ensuring satisfactory financial assurance.
<p><b>Comment:</b> As you may be aware, our firm frequently represents parties with significant interests in the application of Department Regulations, including Regulation 61-56. We are writing to address one issue not squarely addressed in the Notice of Drafting, which I believe requires immediate attention to appropriately “modernize the regulation and streamline permitting procedures” for systems under the purview of the Onsite Wastewater program. Specifically, we believe the current ambiguous language addressing financial assurance for community treatment systems should be revised to align with financial assurance language and requirements in other environmental regulatory programs managed by the Department.</p> <p>The current language of S.C. Code Ann. Regulation 61-56 provides only that “[a]n onsite wastewater system serving more than one (1) piece of deeded property shall be considered as a community or cluster collection and treatment system and ... [i]f the project is owned by a private entity or person, the Department shall require financial assurances for the operation, maintenance, and replacement of the tank(s) and subsurface wastewater infiltration area system and relevant collection/pumping components.” R.61-56.102.5(3). No further guidance is provided to the staff here or elsewhere in Regulations as to what forms of financial assurance will be deemed</p>		

acceptable for these systems. As a matter of practice, the Department has required system owners to enter into complex financial assurance agreements and make cash deposits with the State Treasurer's Office in accounts to be overseen by the Department. These arrangements and the strict cash requirement for financial assurance are unnecessarily constraining for property owners and developers, and administratively burdensome on the Department. Moreover, these financial agreements are not presented to the applicants in a timely manner and often further delay the permitting process.

By contrast, the Department Solid Waste Regulations allow a solid waste landfill permittee to fulfill its obligation for financial assurance through several enumerated methods including: a trust fund, surety bond, letter of credit, insurance, corporate financial test, certificate of deposit, other state approved mechanism, or any combination thereof. See, S.C. Code Ann. Reg. 61-107.19 Part I(E)(4). As a general principle, solid waste landfills would likely present a more significant environmental and financial risk than a small subdivision community wastewater system. It would seem reasonable that the financial assurance instruments appropriate to address the risks of landfills could also be employed in other situations where financial assurance is required by the Department.

We would request that the Department consider adoption of financial assurance language in R.61-56 that is similar to that utilized in R. 61-107.19.

(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Facilities Oversight

**Re: Notice of Proposed Regulation amending R.61-24, *Licensed Midwives*.**

### **I. Introduction**

The Bureau of Facilities Oversight (“Bureau”) proposes the attached Notice of Proposed Regulation amending R.61-24, *Licensed Midwives*, for publication in the August 28, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in S.C. Code Sections 44-1-140 et. seq, which requires the Department of Health and Environmental Control (“Department”) to establish and enforce basic standards for the licensure of midwives and midwifery services to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

### **II. Facts**

1. The Department proposes amending R.61-24 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure.
2. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received public comments from five parties by the March 30, 2020, close of the public comment period. Attachment C presents a summary of these public comments received and Department responses.
3. The Bureau of Facilities Oversight held a stakeholder meeting on March 17, 2020.
4. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2020.

### **III. Request for Approval**

The Bureau of Facilities Oversight respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.



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Angie Smith  
Interim Director  
Bureau of Facilities Oversight

Gwen C. Thompson  
Deputy Director  
Healthcare Quality

Attachments:

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

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR REGULATION 61-24, Licensed Midwives**

**August 13, 2020**

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

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

Statutory Authority: 1976 Code Sections 44-1-140 *et seq.*

61-24. Licensed Midwives.

**Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-24 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-24 was last amended in 2013.

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

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

**Section-by-Section Discussion of Proposed Amendments:**

Amended the Table of Contents to reflect proposed amendments in the text.

Section 100. Definitions and Licensure, title amended for consistency with other Department regulations.

101. A. recodified A.2.i. amended definition for consistency with other Department regulations.

101.B. re-codified from A.2.a.

101.C. re-codified from A.2.b. and amended to update terminology.

101.D. added definition of Authorized Healthcare Provider for consistency with other Department regulations.

101.E. added definition of Birthing Center for clarity

101.F. added definition of Blood Assay Mycobacterium Tuberculosis for consistency with other Department regulations.

101.G. re-codified from A.2.c.

101.H. recodified prior A.2.g.

101.I. added definition of Client for consistency with other Department regulations and for clarity. Former A.2.d was removed no longer relevant.

101.J. added definition of Compliance Meeting for clarity.

101.K. re-codified from A.2.e and amended for clarity.

101.L. re-codified from A.2.f and amended for clarity.

101.M. re-codified from A.2.h.

101.N. added definition of Discharge for clarity.  
Former A.2.i. was removed as it is not relevant.  
101.O. added definition of Fetal Presentation for clarity.  
101.P. added definition of Home Birth for clarity.  
101.Q. added definition of Incident for clarity and consistency with other Department regulations.  
101.R. added definition of Inspection for clarity.  
101.S. added definition of Investigation for clarity.  
101.T. re-codified from A.2.j and amended for consistency with other Department regulations.  
101.U. re-codified from A.2.k and amended for consistency with other Department regulations.  
101.V. added definition of Low Risk Pregnancy for clarity.  
101.W. added definition of Medical Consultation for clarity.  
101.X. added definition of Medication for consistency with other Department regulations and clarity.  
101.Y. re-codified from A.2.l and amended for consistency with other Department regulations.  
101.Z. re-codified from A.2.m and amended for clarity.  
101.AA. re-codified from A.2.n.  
101.BB. added definition of Neonate for clarity.  
101.CC. re-codified from A.2.o.  
101.DD. re-codified from A.2.p and amended for clarity.  
101.EE. added definition of Physical Examination for clarity and consistency with other Department regulations.  
101.FF. re-codified from A.2.q.  
101.GG. added definition of Prescription Medication to reflect statutory-defined term and for clarity.  
101.HH. added definition of Quarterly for clarity.  
101.II. added definition of Referral for clarity.  
101.JJ. added definition of Revocation of License for clarity.  
101.KK. re-codified from A.2.r and amended for clarity and consistency with other Department regulations.  
101.LL. added definition of Suspension of License for clarity.  
101.MM. added definition of Transfer of Care for clarity.  
101.NN. added definition of Tuberculin Skin Testing for clarity and consistency with other Department regulations.  
101.OO. added definition of Variance for clarity and consistency with other Department regulations.

Sections B-Q of prior regulation were struck due to recodification and amendments.

102. section title added for consistency with other Department regulations. and re-codified from prior Section C.  
102.A prior C. amended for consistency with other Department regulations.  
102.B combined language from prior C. and language from other regulations for consistency with other Department regulations.  
102.C prior B.2 was re-codified and amended for clarity and consistency with other Department regulations.  
102.D added for clarity and consistency with other Department regulations.  
102.E prior C.2.a-f amended for clarity and consistency with other Department regulations.  
102.F added for clarity and consistency with other Department regulations.  
102.G prior C.7 was amended for clarity and consistency with other Department regulations.  
102.H added for consistency with other Department regulations.  
102.I re-codified prior B.9.

103. Apprentice Midwife Permit section title added to reflect distinction between permitted Apprentice Midwife and Licensed Midwife.

- 103.A added for clarity and consistency with other Department regulations.
- 103.B added to clarify documentation needed to complete Permit application.
- 103.C added for clarity.
- 103.D added for clarity.
- 103.E added for clarity.

104. Variance added for consistency with other Department regulations.

Section 200 – Enforcement of Regulations, section title added for consistency with other Department regulations.

- 201 added for consistency with other Department regulations.
- 202 title added for consistency with other Department regulations.
- 202.A prior B.6 re-codified for consistency with other Department regulations.
- 202.B added for clarity and consistency with other Department regulations.
- 202.C added for consistency with other Department regulations.
- 203. section added for consistency with other Department regulations.

Section 300. Enforcement Actions, added for consistency with other Department regulations.

- 301. added for consistency with other Department regulations.
- 302. added for consistency with other Department regulations and for clarity.
- 302.A added for consistency with other Department regulations and for clarity.
- 302.B added for consistency with other Department regulations and for clarity.
- 302.C added for consistency with other Department regulations and for clarity.
- 302.D added for consistency with other Department regulations and for clarity.
- 302.E added for consistency with other Department regulations.

Section 400. Scope of Practice, prior Section D.

- 400.A re-codified and amended prior D. for clarity.
- 400.B re-codified and amended prior D. for clarity.
- 400.C added to reflect Scope of Practice and provide clarity.
- 400.D added to reflect Scope of Practice and provide clarity.

Section 500. Continuing Education. re-codified section E and added language for clarity.

- 500.A added to provide clarity regarding evidence of completion of 30 contact hours of continuing education during the licensing period in prior C.5.c.
- 500.B re-codified and amended Section E for clarity.

Section 600. Reporting, added for consistency with other Department regulations.

- 601 added for consistency with other Department regulations.
- 601.A added for clarity.
- 601.B added for clarity.
- 601.C added for clarity.
- 602 re-codified prior O.3.a and amended for clarity.
- 603 re-codified prior O.3.d and amended for clarity.
- 604 re-codified prior O.2 and amended for clarity.

Section 700. Client and Neonate Records, added for consistency with other Department regulations.

- 701 re-codified prior O.1 amended for clarity.
- 701.A re-codified prior O.1 amended for clarity.
- 701.B re-codified prior O.1.a amended for clarity.
- 701.C re-codified prior O.1.c.

Section 800. Reserved, section number was added as reserved to align sections of this regulation with other Department regulations.

Section 900. Client Care and Services, added for consistency with other Department regulations.

901. re-codified prior F.

901.A re-codified prior F.1 amended for clarity.

901.B re-codified prior F.3 amended for clarity.

901.C re-codified prior F.4 amended for clarity.

901.D added to clarify required tests and create section to combine testing required in prior regulation

901.E. prior F.4.b,k,l recodified and amended for clarity.

901.F. prior H.1 recodified and amended for clarity.

902. re-codified prior G.

902.A re-codified prior G.1.b amended for clarity.

902.B re-codified prior G.2 amended for clarity.

902.C re-codified prior G.1.d.

902.D re-codified prior G.1.f amended for clarity.

902.E re-codified prior G.1.f amended for clarity.

903. re-codified prior H.

903.A re-codified prior H.1 amended for clarity.

903.B re-codified prior H.2 amended for clarity.

904. re-codified prior I.

904.A re-codified prior I.1 amended for clarity.

904.B re-codified prior I.3 amended to reflect statutory requirements.

Section 1000. Informed Consent, re-codified prior F.5

1000.A re-codified prior F.5.

1000.B re-codified prior.

1000.C add for consistency with other Department regulations.

1000.D added for clarity.

Section 1100. Physical Examination, added for consistency with other Department regulations

1100.A re-codified prior F.1 amended for clarity.

1100.B re-codified prior F.1 amended for clarity.

Section 1200. Prescription Medication Administration, added for consistency with other Department regulations and to allow Midwives to administer certain Prescribed Medications.

1200.A next text added to allow Midwives to administer Prescription Medications prescribed and ordered by a Physician or other Authorized Healthcare Provider for a Client of Neonate.

1200.B new text to clarify the Prescription Medications a Licensed Midwife or Apprentice Midwife are able to administer.

Section 1300. Medical Consultation, re-codified from prior K and L and amended to clarify Medical Consultation and Referral.

1300.A re-codified prior K and L amended for clarity related to Medical Consultations.

1300.B re-codified prior K and L amended for clarity related to Referral.

Section 1400. Discharge, added to clarify requirements related to the Discharge of a Client.

Section 1500. Transfer of Care, re-codified and amended prior M.1 and added language related to Transfer of Care.



Section 1600. Maintenance of Equipment, re-codified and amended prior G.3 for clarity.

Section 1700. Infection Control, added for consistency with other Department regulations.

1701. added for consistency with other Department regulations.

1702. re-codified prior C.6 for consistency with other Department regulations.

1702.A.-E. re-codified from prior C.6 and amended to reflect current CDC and DHEC TB Control guidelines.

Section 1800. Midwifery Advisory Council, re-codified from prior P.1 and amended for consistency with other Department regulations and statues related to Departmental advisory council and/or committee responsibilities.

Sections 1900 - 2600. Reserved, section numbers added as reserved to align sections of this regulation with other Department regulations.

Section 2700. Severability, added for consistency with other Department regulations.

Section 2800. General, prior Q. re-codified and amended for consistency with other Department regulations.

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

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its November 12, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

#### **Preliminary Fiscal Impact Statement**

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

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

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

DESCRIPTION OF REGULATION: 61-24, Licensed Midwives

Purpose: The Department proposes amending R.61-24 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-1-140 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 the proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amended regulation and any associated information.

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for midwives applying for licensure and incorporate requirements for scope of care, continuing education training, as well as client care and services and prescription medication administration requirements. The amendments revise and incorporate requirements regarding Department inspections and investigations, maintenance of accurate client records, and other requirements for licensure.

**DETERMINATION OF COSTS AND BENEFITS:**

Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these amendments. There are no anticipated additional costs to the regulated community.

**UNCERTAINTIES OF ESTIMATES:**

None.

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

The proposed amendments to R.61-24 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for the licensure of midwives. There are no anticipated effects on the environment.

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

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

**Statement of Rationale:**

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

The Department of Health and Environmental Control proposes amending R.61-24. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for midwives applying for licensure and incorporate provisions delineating new requirements in scope of practice, continuing education training, as well as new prescription medication administration and infection control requirements. The amendments revise and incorporate requirements for client and neonate care and services, Department inspections and investigations, maintenance of accurate and current client records, and other requirements for licensure.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-24. Licensed Midwives.

Statutory Authority: ~~S.C. Code Sections 44-1-140, 40-33-30, 44-37-40, 44-37-50, and 44-89-10 et seq., S.C. Code of Laws, 1976, as amended.~~

Table of Contents:

~~A. Purpose and Scope; Definitions.~~

~~—1. Purpose and Scope.~~

~~—2. Definitions.~~

~~B. Interpretations.~~

~~—1. License.~~

~~—2. Issuance of License.~~

~~—3. Effective date and Term of License.~~

~~—4. Fees.~~

~~—5. Initial License.~~

~~—6. Inspections.~~

~~—7. Noncompliance.~~

~~—8. Exceptions to Licensing Standards.~~

~~—9. Change of License.~~

~~—10. Revocation of License.~~

~~—11. Hearings and Appeals.~~

~~C. Requirements for Licensure.~~

~~—1. Midwife Apprentice License.~~

~~—2. Initial Midwife License.~~

~~—3. Examination.~~

~~—4. Limitations.~~

~~—5. Renewal of Midwife License.~~

~~—6. Tuberculin Skin Test Requirements.~~

~~—7. Delinquency Period.~~

~~D. Scope of Practice.~~

~~E. Educational Requirements.~~

~~F. Prenatal Care.~~

- 1. Required Visits.
- 2. Scheduled Visits.
- 3. Home Visit.
- 4. Nature of Care.
- 5. Informed Consent.
- 6. Parent Education.

G. Intrapartum Care:

- 1. Intrapartum Midwife Duties.
- 2. Examination in Labor.
- 3. Sanitation.
- 4. Operation Procedures.
- 5. Medications.

H. Postpartum Care:

- 1. Immediate Care.
- 2. Subsequent Checkups.
- 3. RhoGam Requirements.

I. Care of the Newborn:

- 1. Immediate Care.
- 2. Eye Care.
- 3. Metabolic Screening.
- 4. Subsequent Care.
- 5. Infant Care.
- 6. Provision of Information.

J. Referral to Physician:

- 1. Recognition of Problems.
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**SECTION 2800 – GENERAL**

**A. Purpose and Scope; Definitions.**

~~—1. Purpose and Scope. The purpose of this regulation is to provide requirements for licensure, education, minimum standards of care and practice to individuals who desire to practice midwifery in the State of South Carolina.~~

**SECTION 100 – DEFINITIONS AND LICENSURE**

~~2.101. Definitions~~**Definitions**. For the purposes of these regulations the following definitions apply:

~~A. Administering Medication. The acts of preparing and giving of a single dose of a medication to the body of a Client or Neonate by injection, ingestion, or any other means in accordance with the orders of a Physician or other Authorized Healthcare Provider.~~

~~aB. Apprentice Midwife. A person authorized by the Department to engage in a course of study to include clinical experience under the supervision of a Physician, Certified Nurse-Midwife, Certified Professional Midwife, or Midwife licensed in the State of South Carolina who will prepare that person to become a licensed Midwife.~~

~~bC. Apprentice Midwife License/Permit. A license issued by the Department to authorize a person desiring to become a midwife to obtain clinical experience under supervision of a physician, certified nurse-midwife, certified professional midwife, or midwife licensed in the State of South Carolina. This license is not transferable.~~A permit issued by the Department to authorize an Apprentice Midwife to provide

Midwifery Services while he or she obtains the required clinical experience under Supervision of a Midwifery Preceptor.

D. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina as a Physician, advanced practice registered nurse, or physician assistant to provide specific treatments, care, and services to Clients.

E. Birthing Center. A facility or other place where human births are planned to occur. This does not include the usual residence of the mother or any facility which is licensed as a hospital or the private practice of a Physician who attends the birth.

F. Blood Assay for Mycobacterium Tuberculosis. A general term to refer to in vitro diagnostic tests that assess for the presence of tuberculosis infection with Mycobacterium tuberculosis. This term includes, but is not limited to, interferon gamma release assays.

eG. Certified Nurse-Midwife. A registered nurse licensed to practice in this state that has been certified by the American College of Nurse-Midwives and officially recognized by the ~~State~~South Carolina Board of Nursing for South Carolina.

H. Certified Professional Midwife. A professional midwifery practitioner who has met the standards for certification set by the North American Registry of Midwives.

I. Client. An individual who is receiving services from a Midwife or an Apprentice Midwife.

d. Community Health Center. A not for profit organization which receives federal funding to operate a local health center.

J. Compliance Meeting. A meeting with a Licensee and individuals authorized by the Department to provide information in order to enable the Licensee to better comply with this regulation.

eK. Contact Hour. A unit of measurement to describe fifty to sixty (50-60) minutes of an approved, organized learning experience or two (2) hours of planned and supervised clinical practice ~~which~~that is designed to meet professional educational objectives.

fL. Continuing Education. Participation in an organized learning experience ~~under responsible sponsorship or supervised clinical practice, capable direction and qualified instruction and~~ approved by the Department for the purpose of meeting requirements for renewal of licensure under these regulations.

g. Certified Professional Midwife (CPM). A professional midwifery practitioner who has met the standards for certification set by the North American Registry of Midwives (NARM).

hM. Department. The ~~S.C.~~South Carolina Department of Health and Environmental Control.

N. Discharge. The point at which care and services by a Midwife are terminated and the Midwife no longer maintains active responsibility for the care and services of the Client.

i. Health Care Provider. A physician or nurse practitioner.

O. Fetal Presentation. The part of the fetus's body that leads the way out through the birth canal called the presenting part.

P. Home Birth. A birth planned to occur or occurring at the usual residence of the Client.

Q. Incident. An unusual, unexpected adverse event, including any accidents, that could potentially cause harm, injury, or death to Clients or Neonates.

R. Inspection. An in-person meeting or a request for and review of materials by Department representatives for the purpose of determining compliance with this regulation.

S. Investigation. An in-person meeting or review of materials by Department representatives for the purpose of determining the validity of allegations received by the Department relating to regulatory compliance.

~~j~~T. License. A document issued by the Department which authorizes an individual to practice midwifery within the scope of these regulations. The license is not transferable. The authorization to practice as a Midwife as defined in this regulation and as evidenced by a certificate issued by the Department to a Midwife.

~~k~~U. Licensee. A licensed midwife or a licensed apprentice midwife. The individual licensed pursuant to this regulation to provide midwifery care and services.

V. Low Risk Pregnancy. A normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

W. Medical Consultation. A procedure whereby a Midwife makes contact with a Physician or other Authorized Healthcare Provider for recommendations as to care and treatment of the Client based on the Midwife's observations and assessment.

X. Medication. A substance that has therapeutic effects, including, but not limited to Prescription Medications, over-the counter, and nonprescription Medications, herbal products, vitamins, and nutritional supplements.

~~†~~Y. Midwife. A person licensed by the State of Department who provides midwifery services. Midwifery Services as defined below in this regulation.

~~m~~Z. Midwifery Instructor/Preceptor. A physician, certified nurse-midwife or licensed midwife-Physician, Certified Nurse-Midwife, or Midwife, licensed in the State of South Carolina, who has a supervisory relationship with an ~~a~~Apprentice ~~m~~Midwife.

~~n~~AA. Midwifery Services. Those services provided by a person who is not a medical or nursing professional licensed by an agency of the State of South Carolina, for the purpose of giving primary assistance in the birth process either free, for trade, or for money, provided, however, that this shall not preclude any medical or nursing professional from being licensed in accordance with this regulation. This definition shall not be interpreted to include emergency services provided by lay persons or emergency care providers under emergency conditions.

BB. Neonate. An infant younger than four (4) weeks old.

~~e~~CC. North American Registry of Midwives (NARM). National organization which that provides and maintains an evaluative process for multiple routes of midwifery education and training, and develops and administers a standardized examination system for ~~CPM~~Certified Professional Midwife credentialing.



~~pDD.~~ Nurse Practitioner. A registered nurse licensed to practice in this state and registered with the ~~S.C.~~South Carolina State Board of Nursing. A ~~e~~Certified ~~n~~Nurse-midwife is accepted by the Board of Nursing as meeting these requirements.

EE. Physical Examination. An examination of a Client by a Physician or other Authorized Healthcare Provider that addresses those issues identified in Section 1100 of this regulation.

~~qFF.~~ Physician. A ~~person~~doctor of medicine or doctor of osteopathic medicine who is licensed to practice medicine in by the State of South Carolina Board of Medical Examiners.

GG. Prescription Medication. A drug that is required by any applicable federal or state law to be dispensed pursuant only to a Prescription Medication order or is restricted to use by Physicians or other Authorized Healthcare Providers only.

HH. Quarterly. A time period that requires an activity to be performed every three (3) months.

II. Referral. The Midwife's directing or sending a Client to obtain additional care provided by a Physician or other Authorized Healthcare Provider.

JJ. Revocation of License. An action by the Department to cancel or annul a License by recalling, withdrawing, or rescinding the authority to operate or provide care.

~~rkK.~~ Supervision. ~~Coordination of learning experiences, direction, and continued evaluation of the practice of an apprentice midwife.~~Being physically present within immediate distance and available to respond to the needs of the Apprentice Midwife and/or Clients, and ensuring that the Apprentice Midwife is providing appropriate care to the Client.

LL. Suspension of License. An action by the Department requiring a Licensee or Permit holder to cease operations for a period of time or to require a Licensee or Permit holder to cease admitting Clients, until such time as the Department rescinds that restriction.

MM. Transfer of Care. The point at which the Midwife discontinues care and relinquishes further care to an Authorized Healthcare Provider or emergency medical services personnel.

NN. Tuberculin Skin Test. A small dose (one-tenth (0.1) milliliter) of purified protein derivative tuberculin is injected just beneath the surface of the skin by the intradermal Mantoux method, and the area is examined for induration of hard, dense, raised area at the site of the Tuberculin Skin Test administration forty-eight to seventy-two (48 to 72) hours after the injection though positive reactions can still be measurable up to a week after administering the Tuberculin Skin Test. The size of the indurated area is measured with a millimeter ruler and the reading is recorded in millimeters, including zero (0) millimeters to represent no induration. Redness and/or erythema is insignificant and is not measured or recorded.

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

#### ~~B. Interpretations.~~

~~—1. License.~~ It shall be unlawful to conduct midwifery services within South Carolina without possessing a valid license issued by the Department.

~~—2. Issuance of License.~~

~~— a. A license is issued pursuant to the provisions of Section 44-7-260(A) of the South Carolina Code of Laws of 1976, as amended, and the standards promulgated thereunder. The issuance of a license does not guarantee adequacy of individual care, treatment, personal safety, or the well-being of any patient.~~

~~— b. A license is not assignable or transferable and is subject to revocation by the Department for failure to comply with the laws and regulations of the State of South Carolina.~~

~~— c. The license must be posted in a conspicuous place visible to patients.~~

~~—3. Effective Date and Term of License. A license for a midwife shall be effective for a 24-month period following the date of issue. An apprentice midwife license shall be effective for a one-year period following the date of issue.~~

~~—4. Fees. The license fee for each midwife license is one hundred fifty dollars (\$150) per 24-month licensing period. The annual license fee for an apprentice midwife shall be fifty dollars (\$50). The license fees shall be payable to the Department and shall be used exclusively in support of activities pursuant to this regulation. Fees are not refundable.~~

~~5. Initial License. A person who has not been continuously licensed under these or prior standards shall not provide care to patients until issued an initial license.~~

~~6. Inspections. The Department is authorized to inspect records of mothers and newborns delivered by midwives at any time.~~

~~7. Noncompliance. When noncompliance with the licensing standards exists, the licensee shall be notified by the Department of the violations and required to provide information as to how and when such an item will be corrected.~~

~~—8. Exceptions to Licensing Standards. The Department may make exceptions to these standards where it is determined that the health and welfare of the community require the services of the licensee and that the exception, as granted, will have no significant impact on the safety, security or welfare of the licensee's patients.~~

~~—9. Change of License. A licensee shall request to the Department by letter issuance of an amended license prior to a change in the licensee's name or address.~~

~~10. Revocation of License. The Department may refuse to issue, suspend for a definite period, or revoke a license for any of the following causes:~~

~~— a. Dereliction of any duty imposed by law;~~

~~— b. Incompetence as determined by the Department;~~

~~— c. Conviction of a felony;~~

~~— d. Practicing under a false name or alias;~~

~~— e. Violation of any of the provisions of this regulation;~~

- f. Obtaining any fee by fraud or misrepresentation;
- g. Knowingly employing, supervising, or permitting (directly or indirectly) any person or persons not licensed as apprentice or midwife to perform any work covered by these regulations;
- h. Using, causing, or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation however disseminated or published, which is misleading or untruthful;
- i. Representing that the service or advice of a person licensed to practice medicine or nursing will be used or made available when that is not true, or using the words, “doctor” or “nurse,” or similar words, abbreviations or symbols implying involvement by the medical or nursing professions when such is not the case;
- j. Permitting another to use the license; and
- k. Revocation of certification by NARM or other Department approved organization(s).

#### 11. Hearings and Appeals.

- a. A Department decision involving the issuance, denial, or revocation of a license 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.
- b. Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

~~C. Requirements for Licensure. No person may provide midwifery services or represent that s/he is a midwife without first possessing a license issued by the Department in accordance with the provisions of these regulations. Licensure as a midwife shall be by certification by NARM or other Department approved organization(s). Midwives requesting initial licensure will receive a license, provided they have evidence of certification by NARM or other Department approved organization(s) and have also met other requirements as established by the Department.~~

~~— EXCEPTION: Individuals licensed by the Department prior to the publication date of this regulation will not be required to obtain certification by NARM or other Department approved organization(s). However, if a midwife is delinquent in submitting her/his license renewal application and the delinquency period exceeds 30 days the midwife must obtain certification by NARM or other similar Department approved organization(s) and also meet the requirements outlined in this section.~~

~~— 1. Midwife Apprentice License. Upon application, an apprentice license may be issued. An apprentice license authorizes the person to obtain the required clinical experience under supervision of a physician, certified nurse midwife, certified professional midwife, or licensed midwife. Applications for renewal of apprentice licenses must be submitted at least 90 days prior to the expiration of the initial license. A licensed apprentice midwife may apply for renewal of an apprentice license three times before obtaining certification by NARM or other Department approved organization(s). Under extenuating circumstances, one additional renewal may be granted at the discretion of the Department on a case by case basis. The applicant for an apprentice midwife license must:~~

- a. Provide written verification of apprentice/supervisor relationship from the person(s) supervising the applicant and their verified relationship(s) when the apprentice license is renewed;

~~— b. Be enrolled in an approved course of education, or have submitted evidence of a planned course of education, subject to the approval of the Department;~~

~~— c. Show evidence that s/he has had negative testing for tuberculosis or is noninfectious for the same;~~

~~— d. Be able to read and write English.~~

~~2. Initial Midwife License. A licensed midwife may provide care only as allowed by these regulations. In order to apply to become a licensed midwife, a person must submit:~~

~~— a. Application for a midwife license;~~

~~— b. Evidence of completion of certification by NARM or other Department approved organization(s);~~

~~— c. Evidence of completion of an educational program to be evaluated by NARM or other Department approved organization;~~

~~— d. Evidence of completed apprenticeship and a recommendation by the supervising person (clinical experience shall be supervised by a licensed midwife, a certified nurse midwife, a certified professional midwife, or a physician active in perinatal care) to be submitted to the certifying agency;~~

~~— e. Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR) certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program (NRP) certificate in accordance with current NARM or other Department approved organization standards;~~

~~— f. Evidence that the person has had negative testing for tuberculosis or is noninfectious for the same.~~

~~— 3. Examination.~~

~~— a. Upon approval of the above documentation by the Department the applicant may sit for the examination, and upon successfully passing the examination, may be licensed as a midwife.~~

~~— b. Applicants for licensure as a midwife who lack apprenticeship in South Carolina but who have equivalent experience from another jurisdiction may apply for a midwife license and sit for the qualifying examination after submitting evidence of experience and of all other requirements to the Department. Action will be taken on each request on an individual basis.~~

~~— 4. Limitations. A licensed midwife may sponsor a maximum of three apprentice midwives simultaneously.~~

~~5. Renewal of Midwife License. Licenses must be renewed every 24 months. An applicant for renewal of a midwife license must submit at least 60 days prior to the expiration of his/her license:~~

~~— a. A midwife license renewal application;~~

~~— b. Evidence of completion of certification by NARM or other Department approved organization(s);~~

~~— c. Evidence of completion of 30 contact hours of continuing education during the licensing period;~~

~~— d. Evidence of certification from the American Red Cross or American Heart Association in cardiopulmonary resuscitation of adult and newborn within the previous year;~~

~~— e. Evidence of participation in an annual peer review;~~

~~— f. Evidence of an annual negative skin test for tuberculosis or is noninfectious for the same.~~

~~— g. EXCEPTION: Individuals licensed by the Department prior to the publication date of this regulation and not certified by NARM or other Department approved organization(s) must submit the following to the Department:~~

~~— (1) Evidence of completion of 30 contact hours of continuing education during the licensing period;~~

~~— (2) Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR) certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program (NRP) certificate in accordance with current NARM or other Department approved organization standards;~~

~~— (3) Evidence of participation in an annual peer review.~~

~~6. Tuberculin Skin Test Requirements. Within three months prior to initial application and annually thereafter, midwives and apprentices shall have a tuberculin skin test, unless a previously positive reaction can be documented. The intradermal (Mantoux) method, using five tuberculin units of stabilized purified protein derivative (PPD) is to be used. Persons with tuberculin test reactions of 10mm or more of induration should be referred to a physician for appropriate evaluation. The two-step procedure (one Mantoux test followed one week later by another) is required for initial testing in order to establish a reliable baseline.~~

~~— a. Persons with reactions of 10mm and over to the initial application tuberculin test, those who have previously documented positive reactions, those with new positive reactions to the skin tests, and those with symptoms suggestive of TB (e.g., cough, weight loss, night sweats, fever, etc.), shall be given a chest X ray to determine whether TB is present. If TB is diagnosed, the person shall be referred to a physician for appropriate treatment and contacts examined.~~

~~— b. There is no need to conduct an initial or routine chest X ray on persons with negative tuberculin tests who are asymptomatic.~~

~~— c. Persons with negative tuberculin skin tests shall have an annual tuberculin skin test.~~

~~— d. No person who has a positive reaction to the skin test shall have patient contact until certified non-contagious by a physician.~~

~~— e. New applicants who have a history of TB shall be required to have certification by a physician that they are non-contagious prior to patient contact.~~

~~— f. Applicants who are known or suspected to have TB shall be required to be evaluated by a physician and will not be allowed to have patient contact until they have been certified non-contagious by the physician.~~

~~— g. Preventive treatment of personnel with new positive reactions is essential, and shall be considered for all infected applicants who have patient contact, unless specifically contraindicated. Persons who complete treatment may be exempt from further routine chest X-rays unless they have symptoms of TB. Routine annual chest X-rays of persons with positive reactions do little to prevent TB and therefore are not a substitute for preventive treatment.~~

~~—h. Post exposure skin tests should be provided for tuberculin negative persons within 12 weeks after termination of contact for any suspected exposure to a documented case of TB.~~

~~7. Delinquency Period. Delinquency in renewal of licensure of 30 days after the license expiration date shall result in a delinquency fee of \$25 in addition to the licensure fees noted in Section B.4. If after that period of time application has not been received, the applicant will be required to retake the midwife examination, to include payment of the examination fee.~~

~~D. Scope of Practice. The licensed midwife may provide care to low risk women and neonates determined by medical evaluation to be prospectively normal for pregnancy and childbirth (see Sections J., K. and L.); and may deliver only women who have completed between 37 to 42 weeks of gestation, except under emergency circumstances. Care includes:~~

~~—1. Prenatal supervision and counseling;~~

~~—2. Preparation for childbirth;~~

~~—3. Supervision and care during labor and delivery and care of the mother and newborn in the immediate postpartum, so long as progress meets criteria generally accepted as normal.~~

~~E. Educational Requirements. The Department shall set minimum educational standards and requirements. The Department may suggest or require specific topics for continuing education based on any problem areas indicated by midwives' quarterly reports, consumer feedback, or on advances in available knowledge. The Department shall keep all applicants for licensure or renewal fully informed of requirements for attaining, demonstrating and upgrading knowledge and skills.~~

~~F. Prenatal Care.~~

~~—1. Required Visits. The midwife shall, upon acceptance of a woman for care, require her to have two visits with a physician, community health center or health department. One of these visits must be in the final six weeks of pregnancy. The midwife shall make entries in the patient's record of the physician, health center, or health department visits.~~

~~—2. Scheduled Visits. During pregnancy, the patient shall be seen by the midwife or other appropriate health care provider according to the following schedule: at least once every four weeks until 32 weeks gestation, once every two weeks from 32 until 36 weeks, and weekly after 36 weeks.~~

~~—3. Home Visit. At least one prenatal visit shall be made to each woman's home during the last six weeks of pregnancy.~~

~~—4. Nature of Care. Each prenatal visit shall include the following care:~~

~~—a. Assessment of general health and obstetric status;~~

~~—b. Nutritional counseling;~~

~~—c. Blood pressure;~~

~~—d. Gross urinalysis: dip stick for sugar and protein;~~

~~—e. Weight;~~

- f. Gestational age assessment;
- g. Fundal height;
- h. Palpation of abdomen, Leopold's maneuvers;
- i. Auscultation of FHT after 20 weeks;
- j. Assessment of psychological status;
- k. Education as to cause, treatment, and prognosis of any symptoms, problems, or concerns;
- l. Information regarding childbirth classes and other community resources; and
- m. Hematocrit and/or hemoglobin shall be assessed at approximately three and eight months gestation.

—5. ~~Informed Consent. The midwife shall assure that all women under his/her care understand that s/he is a midwife licensed by this Department to perform midwifery services by virtue of approved education, clinical experience, and examination, but is not a nurse or physician, and are advised of the risks, responsibilities and alternatives for care. In consultation with the expectant parents, s/he shall, prior to the expected date of confinement, plan a strategy for backup medical care for mother and infant, and for transportation to medical facilities in case of emergency, and shall coordinate such arrangements with the backup health care providers. The midwife shall obtain a signed informed consent form to keep in his/her permanent records.~~

—6. ~~Parent Education. The midwife shall assure that natural childbirth and breastfeeding education in some form is available to all of his/her patients, and that they are aware of their rights and responsibilities as consumers of maternity care.~~

#### G. ~~Intrapartum Care.~~

—1. ~~Intrapartum Midwife Duties. During labor, the midwife's duties are to support the natural process and the mother's own efforts, in an attitude of appropriate observation and patience, as well as alertness to the parameters of normality. These duties include, but are not limited to:~~

- a. ~~Ascertaining that labor is in progress;~~
- b. ~~Assessing and monitoring maternal and fetal well being;~~
- c. ~~Monitoring the progress of labor;~~
- d. ~~Assisting with labor coaching;~~
- e. ~~Monitoring the emotional atmosphere;~~
- f. ~~Delivering the baby and placenta; and~~
- g. ~~Managing any problems in accordance with the guidelines cited elsewhere in these regulations and in accord with sound obstetric and neonatal practice.~~

~~—2. Examination in Labor. The midwife will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial sterile examination to be certain there is no prolapsed cord. Once active labor is assuredly in progress, exams may be made as necessary.~~

~~—3. Sanitation. The midwife will conduct all applicable clinical procedures and maintain all equipment used in practice in an aseptic manner.~~

~~—4. Operative Procedures. The midwife will not perform routinely any operative procedure other than artificial rupture of membranes at the introitus and/or clamping and cutting the umbilical cord.~~

~~—5. Medications. Drugs or medications shall be administered only after consultation with and prescription by, a physician. The midwife shall not administer any drugs or medications except:~~

~~— a. For control of postpartum hemorrhage;~~

~~— b. When administering medication in accordance with regulations governing the prevention of infant blindness;~~

~~— c. When administering RhoGam in accordance with accepted standards of professional practice.~~

#### H. Postpartum Care.

~~—1. Immediate Care. The midwife must remain with the mother and infant for a minimum of two hours after the birth or until s/he is certain that both are in stabilized condition, whichever is longer. S/he shall leave clear instructions for self-care until his/her next visit. Immediate postpartum duties include:~~

~~— a. Monitoring the physical status of mother and infant, and offering any necessary routine comfort measures;~~

~~— b. Facilitation of maternal infant bonding and family adjustment; and~~

~~— c. Inspection of the placenta and membranes.~~

~~—2. Subsequent Checkups. Within 24 to 36 hours after delivery, the midwife shall visit the mother and neonate; however, if the midwife is present for the first 20 to 24 hours after delivery, the visit at 24 to 36 hours is not considered mandatory.~~

~~—3. RhoGam Requirements. Women needing RhoGam should be evaluated and treated by the midwife or a health care provider within 72 hours of delivery.~~

#### I. Care of the Newborn.

~~—1. Immediate Care. Immediate care includes assuring that the airways are clear, Apgar scoring, maintenance of warmth, clamping and cutting of umbilical cord, eye care, establishment of feeding and physical assessment.~~

~~—2. Eye Care. The midwife shall instill into each of the eyes of the newborn, within one hour of birth, a prophylactic agent such as silver nitrate or a suitable substitute.~~



~~—3. Metabolic Screening. All requirements for metabolic screening shall be made clear to parents. The midwife shall notify the county health department in the county where the infant resides within three days of delivery in order for a specimen to be obtained.~~

~~—4. Subsequent Care. In the days and weeks following birth, care includes monitoring jaundice, counseling for feeding, continued facilitation of the attachment and parenting process, cord care, etc.~~

~~—5. Infant Care. In consultation with parents, the midwife shall encourage that the infant be seen by a health care provider within two weeks of birth.~~

~~—6. Provision of Information. The midwife shall assure that the parents are fully informed as to available community resources for emergency medical care for infants, well baby care, or other needed services.~~

#### J. Referral to Physician.

~~—1. Recognition of Problems. The midwife must be able at all times to recognize the warning signs of abnormal or potentially abnormal conditions necessitating referral to a physician. It shall be the midwife's duty to consult with a physician whenever there are significant deviations from the normal. The midwife's training and practice must reflect a particular emphasis on thorough risk assessment.~~

~~—2. Continuity of Care. When referring a patient to a physician, the midwife shall remain in consultation with the physician until the resolution of the situation. It is appropriate for the midwife to maintain care of her patient to the greatest degree possible, in accordance with the patient's wishes, remaining present through delivery if possible.~~

~~K. Maternal Conditions Requiring Physician Referral or Consultation. At any time in the maternity cycle, the midwife shall obtain medical consultation, or refer for medical care, any woman who:~~

~~—1. Has a history of serious problems not discovered at the initial visit with a health care provider;~~

~~—2. Develops a blood pressure of 141/89 or more, or a persistent increase of 30 systolic or 15 diastolic over her usual blood pressure;~~

~~—3. Develops marked edema of face and hands;~~

~~—4. Develops severe persistent headaches, epigastric pain, or visual disturbances;~~

~~—5. Develops proteinuria or glycosuria;~~

~~—6. Has convulsions of any kind;~~

~~—7. Does not gain at least 14 pounds by 30 weeks gestation or at least four pounds per month in the last trimester, or gains more than six pounds in any two week period;~~

~~—8. Has vaginal bleeding before the onset of labor;~~

~~—9. Has symptoms of kidney or urinary tract infection;~~

~~—10. Has symptoms of vaginitis;~~

~~—11. Has symptoms of gonorrhea, syphilis or genital herpes;~~

- ~~—12. Smokes more than 10 cigarettes per day and does not decrease usage;~~
- ~~—13. Appears to abuse alcohol or drugs;~~
- ~~—14. Does not improve nutrition within satisfactory limits;~~
- ~~—15. Is anemic (Hematocrit under 32; Hemoglobin under 11.5);~~
- ~~—16. Develops symptoms of diabetes;~~
- ~~—17. Has excessive vomiting;~~
- ~~—18. Has “morning sickness” (nausea) continuing past 24 weeks gestation;~~
- ~~—19. Develops symptoms of pulmonary disease;~~
- ~~—20. Has polyhydramnios or oligohydramnios;~~
- ~~—21. Is Rh negative for periodic blood testing;~~
- ~~—22. Has severe varicosities of the vulva or extremities;~~
- ~~—23. Has inappropriate gestational size;~~
- ~~—24. Has suspected multiple gestation;~~
- ~~—25. Has suspected malpresentation;~~
- ~~—26. Has marked decrease in or cessation of fetal movements;~~
- ~~—27. Has rupture of membranes or other signs of labor before completion of 37 weeks gestation;~~
- ~~—28. Is past 42 weeks gestation by estimated date of confinement and/or examination;~~
- ~~—29. Has a fever of 100.4 for 24 hours;~~
- ~~—30. Demonstrates serious psychiatric illness or severe psychological problems;~~
- ~~—31. Demonstrates unresolved fearfulness regarding home birth or midwife care, or otherwise desires consultation or transfer;~~
- ~~—32. Develops respiratory distress in labor;~~
- ~~—33. Has ruptured membranes without onset of labor within 12 hours;~~
- ~~—34. Has meconium stained amniotic fluid;~~
- ~~—35. Has more than capillary bleeding in labor prior to delivery;~~

- ~~—36. Has persistent or recurrent fetal heart tones significantly above or below the baseline, or late or irregular decelerations which do not disappear permanently with change in maternal position, or abnormally slow return to baseline after contractions;~~
- ~~—37. Has excessive fetal movements during labor;~~
- ~~—38. Develops ketonuria or other signs of exhaustion;~~
- ~~—39. Develops pathological retraction ring;~~
- ~~—40. Does not progress in dilation, effacement or station in any two-hour period in active labor;~~
- ~~—41. Does not show continued progress to delivery after two hours in second stage (primigravida); one hour for multigravida;~~
- ~~—42. Has a partially separated placenta or atonic uterus;~~
- ~~—43. Has bleeding of over three cups before or after delivery of placenta;~~
- ~~—44. Has firm uterus with no bleeding but retained placenta more than one hour;~~
- ~~—45. Has significant change in blood pressure, pulse over 100, or is pale, cyanotic, weak or dizzy;~~
- ~~—46. Retains placental or membrane fragments;~~
- ~~—47. Has laceration requiring repair;~~
- ~~—48. Has a greater than normal lochial flow;~~
- ~~—49. Does not void urine within six hours of birth;~~
- ~~—50. Develops a fever greater than 100.4 on any two of the first ten days postpartum excluding the first day;~~
- ~~—51. Develops a foul-smelling or otherwise abnormal lochial flow;~~
- ~~—52. Develops a breast infection;~~
- ~~—53. Has signs of serious postpartum depression; and~~
- ~~—54. Develops any other condition about which the midwife feels concern, at the midwife's discretion.~~

L. Neonatal Conditions Requiring Physician Referral. The midwife shall obtain medical consultation from a physician for, or shall refer for medical care, any infant who:

- ~~—1. Has an Apgar score of less than seven at five minutes;~~
- ~~—2. Has any obvious anomaly or suspected disorder, abnormal facies, etc.;~~
- ~~—3. Develops grunting respirations, chest retractions, or cyanosis;~~

- 4. Has cardiac irregularities;
- 5. Has a pale, cyanotic or gray color;
- 6. Develops jaundice in the first 36 hours;
- 7. Develops an unusual degree of jaundice at any time;
- 8. Has an abnormal cry;
- 9. Has skin lesions suggesting pathology;
- 10. Has eye discharge suggesting pathology;
- 11. Has excessive moulding of head, large cephalhematoma, excessive bruising, apparent fractures, dislocations, or other injuries;
- 12. Weighs less than five and one half pounds;
- 13. Weighs more than nine pounds, if maternal diabetes or infant birth trauma is suspected;
- 14. Shows signs of hypoglycemia, hypocalcemia, or other metabolic disorders;
- 15. Shows signs of postmaturity;
- 16. Has meconium staining;
- 17. Has edema;
- 18. Does not urinate or pass meconium in first 12 hours after birth;
- 19. Is lethargic, weak or flaccid or does not feed well;
- 20. Has rectal temperature below 97 degrees F. or above 100.6 degrees F.;
- 21. Has full, bulging or abnormally sunken fontanel; and
- 22. Appears abnormal in any other respect.

M. Emergency Measures. The midwife must be able to carry out emergency measures in the absence of medical help. S/he must be trained to deal effectively with those life threatening complications most likely to arise in the course of childbirth.

- 1. Examples of Emergency Situations. These are:
  - a. Respiratory or circulatory failure in mother or infant;
  - b. Postpartum hemorrhage;
  - c. Cord prolapse;

- ~~— d. Tight nuchal cord;~~
- ~~— e. Multiple births and malpresentations;~~
- ~~— f. Shoulder dystocia;~~
- ~~— g. Gross prematurity or intra-uterine growth retardation; and~~
- ~~— h. Serious congenital anomalies.~~

~~— 2. Examples of Emergency Measures. These are:~~

- ~~— a. Episiotomy; and~~
- ~~— b. Intramuscular administration of Pitocin for the control of postpartum hemorrhage.~~

~~N. Prohibitions in the Practice of Midwifery.~~

~~— 1. Medications. The midwife shall not administer any drugs or injections of any kind, except as indicated in Sections G.5 and M.2.b.~~

~~— 2. Surgical Procedures. The midwife shall not perform any operative procedures or surgical repairs other than artificial rupture of membranes at the introitus, and clamping and cutting of the umbilical cord or as noted above in an emergency.~~

~~— 3. Artificial Means. The midwife shall not use any artificial, forcible or mechanical means to assist the delivery.~~

~~— 4. Induced Abortion. The midwife shall not perform nor participate in induced abortions.~~

~~O. Record Keeping and Report Requirements.~~

~~— 1. Record Keeping. The midwife shall maintain records of each mother and neonate which shall contain information as described below. All notes shall be legibly written or typed, dated and signed.~~

~~— a. The mother's record shall include as a minimum:~~

~~— (1) Face Sheet: Name, address (including county), telephone number, age, race, date of birth, occupation, marital status, religion, social security number, name of baby's father, midwife in attendance, apprentice midwife (if present), address and telephone number of person(s) to be contacted in the event of emergency, and name and address of physician to be contacted in the event of emergency;~~

~~— (2) History of hereditary conditions in mother's and/or father's family;~~

~~— (3) First day of the last menstrual period and estimated day of confinement;~~

~~— (4) Blood group and Rh type;~~

~~— (5) Serological test for syphilis (including dates performed);~~

~~— (6) Number, duration and outcome of previous pregnancies, with dates;~~

- ~~—— (7) Drugs taken during pregnancy, labor and delivery;~~
- ~~—— (8) Duration of ruptured membranes and labor, including length of second stage;~~
- ~~—— (9) Complications of labor, e.g., hemorrhage or evidence of fetal distress;~~
- ~~—— (10) Description of placenta at delivery, including number of umbilical vessels; and~~
- ~~—— (11) Estimated amount and description of amniotic fluid.~~
- ~~—— b. The neonate's record shall include at a minimum:~~
  - ~~—— (1) Name, sex, race, date of birth, place of birth, parents' names, address and telephone number, midwife in attendance, and apprentice midwife (if present).~~
  - ~~—— (2) Results of measurements of fetal maturity and well being;~~
  - ~~—— (3) Apgar scores at one and five minutes of age;~~
  - ~~—— (4) Description of resuscitations, if required;~~
  - ~~—— (5) Detailed description of abnormalities and problems occurring from birth until transfer to a referral facility;~~
  - ~~—— (6) Care of the umbilical cord;~~
  - ~~—— (7) Eye care; and~~
  - ~~—— (8) Counseling to the mother regarding feeding, community resources for emergency medical care, well baby care, or other needed services, and metabolic screening.~~
- ~~—— c. Records shall be maintained for no less than 25 years. All records are subject to review by the Department.~~

~~— 2. Registration of Birth. The midwife shall assure that the registration of the baby's birth with the County Health Department is made within five days of birth.~~

### ~~3. Reporting Requirements.~~

~~—— a. Quarterly Reports. Each midwife shall file quarterly reports with the Department on forms provided by the Department. This report includes an Individual Data Sheet which shall be completed for each mother delivered by the midwife. This form includes such information as delivery date, parity, antepartum, labor, newborn, and postpartum statistics, as well as conditions which required consultation by a health care provider. A Summary Sheet is also submitted as a part of the quarterly report. This sheet contains a summary of the mothers cared for during the quarter, e.g., number of undelivered women registered for care with the midwife at the beginning and end of the quarter, women transferred out during antepartum, and women delivered during the quarter.~~

~~— b. Special Reports. When any of the emergency measures listed in Section M. are utilized, a special report must be filed with the quarterly report to the Department, describing in detail the emergency situation, the measure(s) taken, and the outcome.~~

~~— c. Consumer Reports. The midwife shall ask all mothers to complete a Consumer Feedback Form after the delivery experience and mail to the Department. These forms, which are provided to the midwives by the Department, request the mother to furnish information regarding certain statistics about the baby, e.g., name, sex, weight, date and place of delivery, and other information such as types of care the midwife provided and whether or not the mother was satisfied with that care.~~

~~— d. Reporting Mortalities. The midwife shall report any maternal or infant death on a Report of Fetal Death Form (DHEC 665) to the Department, Attn: Vital Records and Public Health Statistics, within 48 hours. This report requires information concerning the death, to include sex, weight, date and place of delivery, pregnancy history, obstetric procedures, complications of labor and/or delivery, method of delivery, congenital anomalies of the fetus, and cause of death.~~

#### ~~P. Department Responsibilities.~~

##### ~~— 1. Midwifery Advisory Council.~~

~~— a. The Commissioner of DHEC shall appoint a Midwifery Advisory Council which shall meet at least annually for the purpose of reviewing and advising the Department regarding matters pertaining to the training, practices, and regulation of midwives in South Carolina. The Council shall consist of three licensed midwives, one consumer of midwife care, two certified nurse midwives, one physician active in perinatal care, and one member at large. Each member shall be appointed for a three year term of office.~~

~~— b. The Council shall establish a committee for peer review to consult with midwives in questions of ethics, competency and performance, and to serve as an appeal committee when disciplinary action has been taken. The committee may recommend denying, suspending, or revoking a license, or may recommend specific educational objectives, apprenticeship or other improvement measures as necessary.~~

##### ~~— 2. Monitoring Outcomes.~~

~~— a. As part of the monitoring process, the Department shall evaluate consumer feedback forms issued through midwives to all consumers of midwifery care. The Department shall also issue to, collect, and evaluate quarterly forms from midwives regarding their practices.~~

~~— b. The Department shall ensure that high quality services are provided by midwives and apprentice midwives in this State through compliance with the standards in these regulations.~~

~~Q. General. Conditions arising which have not been addressed in these regulations shall be managed in accordance with the best practices as determined by the Department.~~

#### **102. Licensure. (II)**

A. License. No person shall provide Midwifery Services or represent, advertise, or market that he or she is a Midwife without first obtaining and possessing a License from the Department. When it has been determined by the Department that Midwifery Services are being provided and the individual has not been issued a license from the Department, the individual shall cease provision of services immediately and ensure the safety, health, and well-being of the clients. Current and/or previous violation of the South Carolina Code or Department regulations may jeopardize the issuance of a License as a Midwife. (I)

B. Compliance. An initial License shall not be issued to a Midwife until the Licensee has demonstrated to the Department that he or she is in substantial compliance with the licensing standards.

C. Issuance and Terms of License.

1. A License is issued pursuant to the provisions of South Carolina Code Section 44-1-140 and this regulation. The issuance of a License does not guarantee adequacy of individual care, treatment, personal safety, or the well-being of any Client.

2. A License is not assignable or transferable and is subject to Revocation by the Department for failure to comply with applicable state laws and regulations.

3. A License for a Midwife shall be effective for a thirty-six (36) month period following the date of issue.

D. Application. Applicants for a License shall submit to the Department a completed application on a form prescribed, prepared, and furnished by the Department prior to initial licensing. Applicants for a License shall file an application with the Department that includes an oath assuring that the contents of the application are accurate and true and in compliance with this regulation.

E. Required Documentation. The applicant shall include:

1. Evidence of current Certified Professional Midwife certification by the North American Registry of Midwives or other Department-approved organization(s);

2. Evidence of completion of an educational program evaluated by the North American Registry of Midwives or other Department-approved organization(s);

3. Evidence of completed apprenticeship in accordance with Section 103 and a written recommendation by the supervising Preceptor;

4. Evidence of a valid cardiopulmonary resuscitation certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program certificate, or other American Academy of Pediatric neonatal resuscitation certification; and

5. Evidence of tuberculosis testing pursuant to Section 1702.

F. Licensing Fees. Each applicant shall pay a License fee prior to the issuance of a License. All fees are non-refundable, shall be made payable by check or money order to the Department or by credit card on a secured portal or website as determined by the Department, and shall be submitted with the application. The initial and renewal License fee for Midwife Licenses shall be two hundred twenty-five dollars (\$225.00) every thirty-six (36) months.

G. Licensing Late Fee. Failure to submit a renewal application and fee to the Department by the License expiration date shall result in a late fee of twenty-five dollars (\$25.00) in addition to the licensing fee. Failure to submit the licensing fee and licensing late fee to the Department within thirty (30) calendar days of the License expiration date shall render the Midwife unlicensed.

H. License Renewal. The Midwife shall renew his or her License every thirty-six (36) months prior to the expiration of the license by submitting a complete and accurate application on a form prescribed and furnished by the Department, shall pay the License fee, and shall not have pending enforcement actions by



the Department. If the License renewal is delayed due to enforcement actions, the renewal License shall be issued only when the matter has been resolved by the Department or when the adjudicatory process is completed, whichever is applicable. The Midwife shall submit the following along with the renewal application:

1. Evidence of current Certified Professional Midwife certification by the North American Registry of Midwives or other Department-approved organization(s);

2. Evidence of completion of forty-five (45) Contact Hours of Continuing Education during the licensing period; and

3. Evidence of a valid cardiopulmonary resuscitation certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program certificate or other American Academy of Pediatric neonatal resuscitation certification.

I. Amended License. The Midwife shall request issuance of an amended License by application to the Department upon a change in the Midwife's name and/or address.

### **103. Apprentice Midwife Permit. (II)**

A. Permit Application. Applicants for an Apprentice Midwife Permit shall submit to the Department a completed application on a form prescribed, prepared, and furnished by the Department prior to issuance of a Permit. Applicants for an Apprentice Midwife Permit shall file an application with the Department that includes an oath assuring that the contents of the application are accurate and true and in compliance with this regulation. An initial Apprentice Midwife Permit shall not be issued until the Apprentice Midwife has demonstrated to the Department that he or she is in substantial compliance with the licensing standards.

B. Required Documentation. The application for an initial or a renewal of an Apprentice Midwife Permit shall include:

1. Written verification of Apprentice and Preceptor relationship from the person(s) supervising the applicant and their verified relationship(s) when the Permit is renewed;

2. Documentation of enrollment in an approved course of education or evidence of a planned course of education, subject to the approval of the Department;

3. Documentation of tuberculosis screening pursuant to Section 1702;

4. Documentation to verify applicant is twenty-one (21) years of age or older; and

5. Verification of the applicant's ability to read and write in English.

C. Issuance and Terms of Permit.

1. An Apprentice Midwife Permit shall be effective for twelve (12) months following the date of issuance.

2. The Apprentice Midwife Permit is not assignable or transferable and is subject to Revocation by the Department for failure to comply with applicable state laws and regulations.

D. Permit Renewal. Applications for renewal of the Apprentice Midwife Permit must be submitted at least ninety (90) calendar days prior to the expiration of the prior Permit. An Apprentice Midwife Permit holder may apply for renewal of their Apprentice Midwife Permit a maximum of three (3) times before obtaining certification by the North American Registry of Midwives or other Department-approved organization(s). Under extenuating circumstances, one (1) additional renewal may be granted at the discretion of the Department on a case-by-case basis. (II)

E. Permit Fees. The initial and renewal Apprentice Midwife Permit fee shall be fifty (\$50.00) dollars. Permit fees shall be made payable by check or money order to the Department or by credit card on a secured portal or website as determined by the Department and are not refundable. (II)

#### **104. Variance.**

The Midwife and Apprentice Midwife may request a variance to this regulation in a format as determined by the Department. Variances shall be considered on a case-by-case basis by the Department. The Department may revoke issued variances as determined to be appropriate by the Department.

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

#### **201. General.**

The Department shall utilize Inspections, Investigations, Compliance Meetings, and other pertinent documentation regarding an Apprentice Midwife Permit holder applicant, Licensed Midwife applicant, Apprentice Midwife Permit holder, and Licensed Midwife in order to enforce this regulation.

#### **202. Inspections and Investigations.**

A. Records of Clients and Neonates delivered by Midwives are subject to Inspections and Investigations as deemed appropriate by the Department. (I)

B. The Midwife shall provide the Department all requested records and documentation in the manner and within the timeframe specified by the Department. (I)

C. When there is noncompliance with the licensing standards, the Midwife shall submit an acceptable plan of correction in a format determined by the Department. The plan of correction shall be signed by the Midwife and returned by the date specified by the Department. The plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

#### **203. Compliance Meetings.**

Compliance Meetings may be provided by the Department as requested by the Licensee or as deemed appropriate by the Department.

### **SECTION 300 – ENFORCEMENT ACTIONS**

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

When the Department determines that a Midwife is in violation of any statutory provision or regulation, the Department, upon proper notice to the Midwife, may deny, suspend, or revoke a License and/or assess a monetary penalty.

### **302. Violation Classifications.**

Violation of standards in this regulation are classified as follows:

A. Class I violations are those that present an imminent danger to the health, safety, or well-being of the persons serviced by the Licensee or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use by the Licensee may constitute such a violation. The Midwife shall immediately abate or eliminate the condition or practice constituting a Class I violation unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations that have a negative impact on the health, safety, or well-being of persons serviced by the Licensee. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in this regulation or those that are against the best practices. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

D. The notations “(I)” or “(II),” placed within sections of this regulation, indicate those standards are Class I or II violations if they are not met, respectively. Failure to meet standards not so annotated are Class III violations.

E. When imposing a monetary penalty, the Department may invoke South Carolina Code Section 44-1-140 to determine the dollar amount or may utilize the following schedule:

<b><u>FREQUENCY</u></b>	<b><u>CLASS I</u></b>	<b><u>CLASS II</u></b>	<b><u>CLASS III</u></b>
<u>1<sup>st</sup></u>	<u>\$200-1,000</u>	<u>\$100-500</u>	<u>\$0</u>
<u>2<sup>nd</sup></u>	<u>500-2,000</u>	<u>200-1,000</u>	<u>100-500</u>
<u>3<sup>rd</sup></u>	<u>1,000-5,000</u>	<u>500-2,000</u>	<u>200-2,000</u>
<u>4<sup>th</sup></u>	<u>5,000</u>	<u>1,000-5,000</u>	<u>500-2,000</u>
<u>5<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>1,000-5,000</u>
<u>6<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>

### **SECTION 400 – SCOPE OF PRACTICE (I)**

A. The Midwife shall only provide care within his or her scope of practice to Clients with Low Risk Pregnancy and Neonates as documented in the Physical Examination pursuant to Section 1100.

B. Midwifery care and services include the following:

1. Prenatal supervision and counseling;
2. Preparation for childbirth; and
3. Supervision and care during labor and delivery including care and services in the immediate postpartum, so long as progress meets criteria generally accepted as normal.

C. The Midwife and Apprentice Midwife may perform any of the following after submitting signed and dated documentation to the Department of the Midwifery Bridge Certificate, Midwifery Education Accreditation Council, American College of Nurse-Midwives, or other Department-approved training course completion on the topic:

1. Administering intravenous fluids;
2. Suturing of first-degree and second-degree tears;
3. Episiotomy; and
4. Administering intra-muscular and subcutaneous injections.

D. The Midwife shall not perform any of the following:

1. Assistance in delivery using vacuum extraction, forceps, or other mechanical equipment;
2. Provision of care for Client with a previous cesarean section;
3. Induction of abortions or participation in inducing abortions;
4. Procedures other than artificial rupture of membranes at the introitus and/or clamping and cutting the umbilical cord; or
5. Circumcision.

### **SECTION 500 – CONTINUING EDUCATION (II)**

A. The Midwife shall complete forty-five (45) Continuing Education Contact Hours per licensure period to improve the Midwife’s ability to provide services within the Midwife’s scope of practice. The Midwife shall ensure all Continuing Education training is documented with the signatures and the dates of the instructors and the Midwife. A signature for the instructor may be omitted for computer-based training. All Continuing Education courses shall be accredited by one of the following:

1. Any organizations approved by the South Carolina Board of Nursing for nursing professionals Continuing Education hours;
2. American College of Obstetrics and Gynecologists;
3. American College of Nurse Midwives;
4. Midwifery Education Accreditation Council;

5. North American Registry of Midwives Bridge Certification Program;

6. International Confederation of Midwives;

7. Accreditation Commission for Midwifery Education; or

8. Another organization approved by the Department.

B. The Midwife shall complete additional Continuing Education on specific topics as required by the Department.

## **SECTION 600 – REPORTING**

### **601. Incidents.**

The Midwife shall report the following Incidents to the Department at the earliest practicable hour, not exceeding forty-eight (48) hours of the Incident, via the Department’s electronic reporting system or as otherwise determined by the Department:

A. Emergent events that require Transfer of Care during intrapartum, postpartum, and newborn periods;

B. Death of the Neonate or Client while under the care of the Midwife; and

C. Prescription Medication errors with adverse effects.

### **602. Quarterly Report Forms.**

The Midwife shall submit complete Quarterly report forms to the Department in a manner and format as determined by the Department.

### **603. Reporting Mortalities.**

The Midwife shall report all maternal and infant deaths to the Department’s Office of Vital Statistics within forty-eight (48) hours of the fatality.

### **604. Registration of Birth.**

The Midwife shall ensure that each birth is registered with the Department’s Regional Vital Records Office within five (5) days of the birth.

## **SECTION 700 – CLIENT AND NEONATE RECORDS**

A. The Midwife shall maintain an organized record for each Client and Neonate. The Midwife shall ensure all entries are permanently written, typed, or entered and stored in electronic media, authenticated by the author, and dated. If the Midwife permits any portion of a Client’s record to be generated by electronic or optical means, the Midwife shall maintain policies and procedures to prohibit the use or authentication by unauthorized users.

B. The Midwife shall maintain current records: (II)

1. Client's records which shall include:

a. Client's Face Sheet: Name, address (including county), telephone number, age, date of birth, Midwife in attendance, Apprentice Midwife (if present), address and telephone number of person(s) to be contacted in the event of emergency, and name and address of the Client's Physician;

b. History of hereditary conditions;

c. First day of the last menstrual period and due date;

d. Blood group and Rhesus type;

e. Serological test for syphilis;

f. Gestational diabetes screening;

g. Number, dates, duration, and outcome(s) of previous pregnancies;

h. Medications prescribed and taken during pregnancy, labor, and delivery;

i. Duration of ruptured membranes and labor, including length of second stage;

j. Complications of labor, including hemorrhage or evidence of fetal distress;

k. Description of placenta at delivery, including number of umbilical vessels;

l. Estimated amount (small, moderate, or large) and description of amniotic fluid;

m. Documentation of scheduled prenatal visits;

n. Documentation of Physician or other Authorized Healthcare Provider examinations, visits, Referrals, and Medical Consultations;

o. Documentation of Discharge or Transfer of Care to include the date, time, and reasoning for the Discharge or Transfer of Care;

p. Client counseling regarding breastfeeding, community resources for emergency medical care, well-baby care, or other needed services, and metabolic screening; and

q. Any other documentation required to be in the Client's record by this regulation.

2. Neonate's records which shall include:

a. Name, gender, date of birth, place of birth, Client's name, address, and telephone number, Midwife in attendance, and Apprentice Midwife (if present);

b. Results of measurements of fetal maturity and well-being;

c. Apgar scores at one (1) and five (5) minutes of age;

d. Description of resuscitation, if required;

e. Care of the umbilical cord;

f. Eye care; and

g. Any other documentation required to be included in the Neonate's record by this regulation.

C. The Midwife shall maintain all records for no less than twenty-five (25) years. The Midwife shall provide a complete copy of a current or former Client's record to the Client or Neonate delivered by the Midwife or the Client's or child's legal representative within thirty (30) calendar days of written request.

## **SECTION 800 – [RESERVED]**

### **SECTION 900 – CLIENT CARE AND SERVICES (I)**

#### **901. Prenatal Care.**

A. Scheduled Prenatal Visits. The Midwife shall conduct prenatal visits with the Client at least one (1) time every four (4) weeks until thirty-two (32) weeks gestation, at least one (1) time every two (2) weeks from thirty-two (32) to thirty-six (36) weeks, and at least one (1) time per week after thirty-six (36) weeks, and document each visit in the Client's record.

B. Home Visit. The Midwife shall conduct at least one (1) of the prenatal visits to the Client's home during the last six (6) weeks of pregnancy if the Client is preparing for a Home Birth. The Midwife may omit the visit to the Client's home during the last six (6) weeks of pregnancy if the Client is preparing for a birth in a Birthing Center licensed by the Department. The Midwife shall maintain documentation in the Client's record indicating the Client's decision to have a Home Birth or to give birth in a licensed Birthing Center and make the documentation in the Client's record available for review by the Department.

C. The Midwife shall document each prenatal visit in the Client's record and include the following care:

1. Assessment of general health and obstetric status;

2. Nutritional counseling;

3. Blood pressure monitoring;

4. Urine dipstick for sugar and protein as needed or if symptomatic;

5. Weight;

6. Fundal height;

7. Palpation of abdomen, Leopold's maneuvers;

8. Auscultation of fetal heart tones after twenty (20) weeks;

9. Education as to cause, treatment, and prognosis of any symptoms, problems, or concerns;

10. Information regarding childbirth classes and other community resources; and

11. Information as to available community resources for emergency medical care for infants, well-baby care, or other needed services.

D Prenatal Testing.

1. The Midwife shall ensure and document in the Client's record that the following prenatal tests and screenings are completed by the Client between eight (8) weeks, zero (0) days and sixteen (16) weeks, zero (0) days gestation:

a. Antibody screen;

b. ABO blood typing;

c. Rhesus factor;

d. Complete blood count with differential for hemoglobin and hematocrit and mean corpuscular volume;

e. Hepatitis B surface antigen;

f. Syphilis screening;

g. Platelet count;

h. Human immunodeficiency virus test, optional;

i. Sexually transmitted infections;

j. Gestational diabetes screening if Client is at high risk for diabetes; and

k. Rubella test.

2. The Midwife shall ensure and document in the Client's record that the Client completes the complete blood count with differential for hemoglobin and hematocrit and mean corpuscular volume prenatal test and screening between twenty-four (24) weeks, zero (0) days and twenty-eight (28) weeks, zero (0) days of gestation.

3. The Midwife shall ensure and document in the Client's record that the following prenatal tests and screening are completed by the Client between thirty-five (35) weeks, zero (0) days and thirty-seven (37) weeks, zero (0) days of gestation:

a. Screening for Group B Streptococcus. The Midwife shall inform the Client of the effects of Group B Streptococcus; and

b. Sexually transmitted infections for Clients with risk factors.

E. The Midwife shall discuss the following with the Client and document the discussion in the Client's record:

1. Nutritional counseling;



2. Education on cause, treatment, and prognosis of any symptoms, problems, or concerns;

3. Childbirth classes and other community resources; and

4. Available community resources for emergency medical care for infants, well-baby care, or other needed services.

F. The Midwife shall provide written instructions to the Client during antepartum for postpartum care, self-care, and newborn care, and document the date provided to the Client in the Client's record.

### **902. Intrapartum Care.**

The Midwife shall provide and document in the Client's record the provision of the following care during the intrapartum period:

A. Assessment, evaluation, and documentation of the status of labor and the Client and fetal conditions throughout the labor and birth process, including Client's vital signs and fetal heart tones;

B. Examination in Labor. The Midwife shall not perform any vaginal examinations on the Client with ruptured membranes and no labor, other than an initial sterile examination to be certain there is no prolapsed umbilical cord. The Midwife shall conduct exams as needed once active labor is in progress;

C. Assisting with labor coaching;

D. Delivering the baby; and

E. Complete delivery of the placenta.

### **903. Postpartum Care.**

A. Immediate Postpartum Care. Immediately following the birth, the Midwife shall remain with the Client and Neonate for a minimum of two (2) hours after the birth or until the Midwife confirms Client and Neonate stability prior to leaving the place of birth. The Midwife shall provide and document in the Client's record the provision of the following care during the immediate postpartum period:

1. Monitoring the physical status of Client and Neonate, including monitoring and recording vital signs within the first two (2) hours and upon Discharge. Assessment, evaluation, and documentation of the physical status of Client and Neonate, and offering any necessary routine comfort measures;

2. Facilitation of maternal-infant bonding and family adjustment;

3. Assistance with breastfeeding and facilitation of bonding based on Client's preferences;

4. Examination of the placenta, umbilical cord, and membranes;

5. Evaluation of the perineum and repairing any first-degree or second-degree tears pursuant to Section 400.C;

6. Monitoring bleeding and condition of the fundus and treatment for hemorrhage pursuant to Section 1200;

7. Obtain a cord blood sample for Rhesus factor testing if Client is Rhesus negative; and

8. Administer Rho(D) immune globulin pursuant to Section 1200.

B. The Midwife shall visit the Client and Neonate twenty-four (24) to thirty-six (36) hours after delivery and document the visit in the Client's record and the Neonate's record.

#### **904. Newborn Care.**

A. Immediate Newborn Care. The Midwife shall provide and document in the Neonate's record the provision of the following care to the immediate newborn:

1. Assurance that the airways are clear;

2. Assessment of the Neonate's condition at one (1) minute and five (5) minutes after birth according to Apgar scoring;

3. Provision of warmth and stimulation if necessary;

4. Obtain a cord blood sample for Rhesus factor testing if Client is Rhesus negative; and

5. Administration of vitamin K to the Neonate with documented informed consent from the Client.

B. Newborn Screening. The Midwife, as the person in attendance, shall collect a specimen from every child born pursuant to South Carolina Code Section 44-37-30 and Regulation 61-80, Neonatal Screening for Inborn Metabolic Errors, and in accordance with the official Department instructions and for submission of the specimen to the Department's Bureau of Laboratories on the day of collection. The Midwife shall notify the Department's Bureau of Maternal and Child Health as specified in the official Department instructions if the specimen is not collected within three (3) calendar days of delivery by the Midwife. If the parents object to the screening based on religious convictions, the Midwife shall ensure the parents complete the procedure specified in the official Department instructions.

### **SECTION 1000 – INFORMED CONSENT (II)**

The Midwife shall ensure an informed consent is documented in writing, signed, and dated by the Midwife and the Client, and shall include the following:

A. Explanation of the specific care and services provided by the Midwife, that the Midwife is not a licensed nurse, Physician, or other Authorized Healthcare Provider, and the risks, responsibilities, and alternatives for care;

B. Explanation of the Midwife's scope of care and conditions requiring Medical Consultation, Discharge, and Transfer of Care;

C. Disclosure of fees for all care and services provided; and

D. Explanation of the benefits of having an anatomic ultrasound.

E. Information for filing a complaint with the Department, including the address and telephone number of the Department and the electronic means and web address for filing a complaint.

**SECTION 1100 – PHYSICAL EXAMINATIONS (I)**

A. Initial Physical Examination:

1. The Midwife shall require the Client to undergo an initial Physical Examination completed by a Physician or other Authorized Healthcare Provider between fourteen (14) weeks and twenty (20) weeks of gestation. The Midwife may admit Clients after twenty (20) weeks gestation provided the Client has undergone a Physical Examination that meets the requirements in Section 1100.A.2.

2. The Midwife shall ensure the initial Physical Examination of the Client is documented in the Client’s record and includes:

a. A written and signed statement by the Physician or other Authorized Healthcare Provider that he or she has determined to the best of his or her ability that the pregnancy is a Low Risk Pregnancy as defined by this regulation; and

b. Identification of special conditions and/or care required.

B. Second Physical Examination:

1. The Midwife shall require the Client to undergo a second Physical Examination completed by a Physician or other Authorized Healthcare Provider after thirty-four (34) weeks of gestation.

2. The Midwife shall ensure the second Physical Examination of the Client is documented in the Client’s record and includes:

a. A written and signed statement from the Physician or other Authorized Healthcare Provider that the pregnancy remains a Low Risk Pregnancy and the fetus is in the vertex position; and

b. Orders for Medications needed for intrapartum.

**SECTION 1200 – PRESCRIPTION MEDICATION ADMINISTRATION (I)**

A. The Midwife shall Administer only the Prescription Medications in Section 1200.B and in accordance with the orders and directions of a Physician or other Authorized Healthcare Provider. The Midwife shall only Administer Prescription Medications to the Client and/or Neonate for whom the prescription is ordered. The Midwife shall maintain documentation in the Client record of all Medications Administered and shall include the time of administration, the quantity and/or dosage, and any adverse effects.

B. The Midwife shall only Administer Medications as prescribed by the Physician or other Authorized Healthcare Provide. The Midwife shall only Administer the following Prescription Medications:

1. Oxygen;

2. Eye prophylactic, within one (1) hour of birth, unless written refusal is obtained from the Client. Documentation of the administration or Client’s refusal shall be made in the Client’s record;

3. Vitamin K to the Neonate with documented informed consent from the Client;

4. Oxytocin or Methergine;

- 5. Lidocaine;
- 6. Penicillin or other antibiotic;
- 7. Lactated Ringers or Normal Saline;
- 8. Epinephrine; and
- 9. Rho(D) immune globulin to the Client within seventy-two (72) hours of delivery.

**SECTION 1300 – MEDICAL CONSULTATION AND REFERRAL (I)**

A. The Midwife shall obtain all Medical Consultations from a Physician or other Authorized Healthcare Provider, licensed in South Carolina or contiguous state, and maintain documentation of the Medical Consultation in the Client's record, including the reason for the Medical Consultation, the date and time of the Medical Consultation, the name of the Physician or other Authorized Healthcare Provider, the recommendations of the Physician or other Authorized Healthcare Provider, and the Client's decision, as authenticated by the Client's signature.

B. The Midwife shall obtain a Medical Consultation for Clients or Neonates presenting any of the following conditions:

1. Antepartum to include:

a. Pregnancy-induced hypertension, as evidenced by a blood pressure greater than or equal to one hundred forty over ninety millimeters of mercury (140/90 mm Hg) on two (2) occasions greater than six (6) hours apart;

b. Persistent severe headaches, epigastric pain, or visual disturbances;

c. Persistent symptoms of urinary tract infection;

d. Significant vaginal bleeding;

e. Abnormal decrease in or cessation of fetal movement;

f. Symptoms of anemia that are resistant to treatment;

g. Fever with temperature of one hundred two degrees Fahrenheit (102°F) or greater for more than twenty-four (24) hours;

h. Non-vertex presentation after thirty-eight (38) weeks gestation;

i. Symptoms of hyperemesis or significant dehydration;

j. Isoimmunization, Rhesus factor negative sensitization, or any other positive antibody titer that may have detrimental effect on Client or Neonate;

k. Elevated blood glucose levels unresponsive to dietary management;

l. Positive human immunodeficiency virus antibody test;

- m. Suspected primary genital herpes infection;
  - n. Symptoms of malnutrition, anorexia, protracted weight loss, or failure to gain weight without adequate nutrition;
  - o. Suspected deep vein thrombosis;
  - p. Signs of labor prior to thirty-seven (37) weeks gestation;
  - q. Multiple gestation;
  - r. Abnormal fetal heart tones;
  - s. Abnormal non-stress test or abnormal biophysical profile;
  - t. Confirmed polyhydramnios or oligohydramnios;
  - u. Gestation beyond forty-two (42) weeks and zero (0) days; and
  - v. Abnormal fetal size for gestation.
2. Intrapartum to include:
- a. Prolonged premature rupture of membranes greater than twenty-four (24) hours;
  - b. Non-vertex presentation;
  - c. Signs of fetal distress;
  - d. Abnormal heart tones with non-reassuring fetal heart tones;
  - e. Moderate to severe meconium staining;
  - f. Persistent blood pressure greater than one hundred forty over ninety millimeters of mercury (140/90 mm Hg);
  - g. Significant proteinuria or ketonuria;
  - h. No progress for greater than five (5) hours during active first stage of labor following six (6) centimeters dilatation;
  - i. More than two (2) hours without descent during second stage of labor;
  - j. Abnormal bleeding; and
  - k. Suspected prolapsed umbilical cord.
3. Postpartum to include:
- a. Retained placenta or fragments greater than one (1) hour;

- b. Hemorrhage greater than one thousand milliliters (1000 ml), and bleeding is uncontrolled; and
- c. Signs of uterine infection, including foul-smelling lochia, uterine tenderness, and fever with a temperature of one hundred two degrees Fahrenheit (102°F) or greater that persists for more than twenty-four (24) hours.
- 4. Neonatal to include:
  - a. Apgar score of less than seven (7) at five (5) minutes without improvement;
  - b. Obvious anomaly, suspected disorder, or abnormal facies;
  - c. Grunting respirations, chest retractions, or cyanosis;
  - d. Cardiac irregularities;
  - e. Pale, cyanotic, or gray in color;
  - f. Abnormal cry;
  - g. Excessive head molding, large cephalohematoma, excessive bruising, apparent fractures, dislocations, or other injuries;
  - h. Weight of less than five and one half (5.5) pounds or more than ten (10) pounds;
  - i. Signs of hypoglycemia, hypocalcemia, or other metabolic disorder;
  - j. Meconium staining;
  - k. No urination or no passage of meconium in the first twenty-four (24) hours following birth;
  - l. Signs of edema;
  - m. Signs of lethargy, weakness, flaccidity, or not feeding well;
  - n. Rectal temperature below ninety-seven degrees Fahrenheit (97°F) or above one hundred point six degrees Fahrenheit (100.6°F);
  - o. Full, bulging, or abnormally sunken fontanel; and
  - p. Signs of any other abnormality.

#### **SECTION 1400 – DISCHARGE**

The Midwife shall immediately Discharge a Client during antepartum when care required for the Client is outside the Midwife’s scope of practice pursuant to Section 400, the Client refuses the initial or second Physical Examination, or the Client refuses a Referral as recommended by a Physician or other Authorized Healthcare Provider during a Medical Consultation.

#### **SECTION 1500 – TRANSFER OF CARE (I)**

A. The Midwife shall immediately initiate a Transfer of Care during intrapartum and postpartum by dialing 911 when the care required is outside the Midwife’s scope of practice pursuant to Section 400, as recommended by a Physician or other Authorized Healthcare Provider during a Medical Consultation, or for any event during labor that compromises the health of the Client or Neonate and/or normally requires emergency intervention.

B. Upon arrival of the emergency medical services personnel, Physician, or other Authorized Healthcare Provider, the Midwife shall transfer the care of the Client to the emergency medical services personnel, Physician, or other Authorized Healthcare Provider. The Midwife shall provide information as requested by the emergency medical services personnel, Physician, or other Authorized Healthcare Provider.

### **SECTION 1600 – MAINTENANCE OF EQUIPMENT**

The Midwife shall maintain all equipment used in the provision of care clean, disinfected, and in good repair and operating condition. All equipment used by the Midwife in the provision of care is subject to Inspection as deemed appropriate by the Department.

### **SECTION 1700 – INFECTION CONTROL**

#### **1701. Infection Control Practices.**

The Midwife shall maintain policies and procedures to address preventing the spread of infectious, contagious, and communicable diseases.

#### **1702. Tuberculosis Screening. (I)**

A. Tuberculosis Testing. Midwives and Apprentice Midwives shall utilize either the Tuberculin Skin Test or the Blood Assay for Mycobacterium Tuberculosis for detecting Mycobacterium tuberculosis infection. Authorized Healthcare Providers may perform the Tuberculin Skin Test and symptom screening.

#### **B. Baseline Status.**

1. The baseline status of Midwives and Apprentice Midwives shall be determined according to the Centers for Disease Control and Prevention and the Department’s most current tuberculosis guidelines.

2. Tuberculosis Screening. Midwives and Apprentice Midwives within three (3) months prior to submission of the initial application to the Department shall have a baseline two-step Tuberculin Skin Test or a single Blood Assay for Mycobacterium Tuberculosis. If the Midwife or Apprentice Midwife applicant has had documented negative Tuberculin Skin Test or a Blood Assay for Mycobacterium Tuberculosis result within the previous twelve (12) months, a single Tuberculin Skin Test or the single Blood Assay for Mycobacterium Tuberculosis may be administered and read to serve as the baseline prior to submission of the initial application by the Midwife or Midwife Apprentice.

3. If the result is positive and/or if the Midwife or Apprentice Midwife is symptomatic for tuberculosis, the Midwife or Apprentice Midwife shall have a chest X-ray and a written assessment by a Physician or other Authorized Healthcare Provider that there is no active tuberculosis. Midwives and Apprentice Midwives who are symptomatic shall not have contact with Clients while awaiting chest X-ray results. The Midwife or Apprentice Midwife shall ensure that their chest X-ray results indicating tuberculosis disease are reported to the Department’s local health department.

4. Midwives and Apprentice Midwives with negative chest X-ray results may have Client contact while reporting to the Department’s local health department for latent tuberculosis infection treatment. Midwives and Apprentice Midwives who does not complete treatment for latent tuberculosis infection shall be monitored with a documented annual symptom evaluation in addition to completing the annual training pursuant to Section 1702.D.

C. Post Exposure. After known exposure to a person with potentially infectious tuberculosis disease without use of adequate personal protective equipment, the tuberculosis status of all Midwives and Apprentice Midwives shall be determined in a manner prescribed in the Centers for Disease Control and Prevention and the Department’s most current tuberculosis guidelines.

D. Annual Tuberculosis Training. Midwives and Apprentice Midwives shall receive annual training regarding tuberculosis to include risk factors and signs and symptoms of tuberculosis disease. The Midwife and Apprentice Midwife shall maintain documentation of the annual tuberculosis training.

E. Serial Screening. Midwives and Apprentice Midwives shall follow the Centers for Disease Control and Prevention and the Department’s most current tuberculosis guidelines related to serial screening.

### **SECTION 1800 – MIDWIFERY ADVISORY COUNCIL**

The Department shall appoint a Midwifery Advisory Council to advise the Department regarding licensing and Inspection of Midwives. The Council shall meet at least annually. The Council shall consist of three (3) licensed Midwives, one (1) consumer of midwife care, two (2) Certified Nurse-Midwives, one (1) Physician active in perinatal care, and one (1) member-at-large. Each member shall be appointed for a three (3) year term of office.

**SECTION 1900 – [RESERVED]**

**SECTION 2000 – [RESERVED]**

**SECTION 2100 – [RESERVED]**

**SECTION 2200 – [RESERVED]**

**SECTION 2300 – [RESERVED]**

**SECTION 2400 – [RESERVED]**

**SECTION 2500 – [RESERVED]**

**SECTION 2600 – [RESERVED]**

### **SECTION 2700 – SEVERABILITY**

In the event that any portion of this regulation is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of this regulation, and they shall remain in effect as if such invalid portions were not originally a part of this regulation.

### **SECTION 2800 – GENERAL**



Conditions that have not been addressed in this regulation shall be managed in accordance with the best practices as interpreted by the Department.

## ATTACHMENT B

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 et seq.

##### Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-24, Licensed Midwives. Interested persons may submit comment(s) on the proposed amendments to the Bureau of Health Facilities Licensing; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [healthregcomm@dhec.sc.gov](mailto:healthregcomm@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on March 30, 2020 the close of the draft comment period.

##### Synopsis:

Pursuant o R.61-24, Licensed Midwives, the Department is responsible for regulating the general licensing, certification, inspection, education requirements, and training procedures for midwives. The Department proposes amending R.61-24 to update and revise definitions and requirements regarding obtaining licensure, inspections, violations, training, responses to medical emergencies, required physician approvals, client records and care, record maintenance and retention, and licensure standards. The Department may add language to incorporate current provider-wide exceptions applicable to midwifery.

The Department may also include stylistic changes, which may include corrections for clarity, readability, grammar, punctuation, codification, and overall improvement of the text.

**ATTACHMENT C**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**R.61-24, Licensed Midwives**

**As of the March 30, 2020, close of the Notice of Drafting comment period:**

NAME	SECTION	DEPARTMENT RESPONSE
1. Lori Gibson, CPM, LM, MBC- Chair of Midwifery Advisory Council on behalf of MAC	General	<b>Partially Adopted.</b> PALM's recommendations were considered in the development of the regulation.
<p>Adapting these PALM suggestions into the regulations will be integral for the assurance of best practices for our South Carolina Licensed Midwives serving in community birth settings. The revisions and additions reflect the national standards and include skills developed and required during training. Licensed Midwives are the only midwives exclusively trained to work in out of hospital, low technology settings such as homes or birth centers. Our state regulations must reflect those skills to ensure that the families they serve are receiving the highest quality of care.</p> <p>The Midwifery Advisory Council believes that the PALM proposed revisions will help further the integration of midwifery care into our state system. This will serve to allow more and smoother access to midwifery skills without delay, especially in areas where birthing families are underserved by the medical system.</p> <p>MAC is available to the Health Regulations Committee to serve for the purpose of reviewing and advising the Department regarding matters pertaining to the training, practices, and regulation of midwives in South Carolina. Please contact us through out this process of revising Regulation 61-24 so that we may, as a Council, partner with the Health Regulations Committee to bring these regulations up to date with current and evidence based additions and changes pertaining to midwifery.</p> <p>Sincerely, Lori Gibson, CPM, LM, MBC- Chair of Midwifery Advisory Council</p> <p>on behalf of MAC: Joanne Gottschall, LM, CPM Lisa Byrd, LM, CPM, MBC Judy Fry, CNM Jessica Day, CNM Dr. Rachel Hall Geoffrey Chambers, Consumer Member</p>		

NAME	SECTION	DEPARTMENT RESPONSE
2. Nicole Lavallee CPM, SCLM	General	<b>Partially Adopted.</b> Midwives are required to meet NARM requirements and be certified by NARM and within the scope of practice. This regulation does not require the oversight by a physician.
<p>Any changes to Regulation 61-24 should align with the North American Registry of Midwives (NARM) standards of care, certification, and scope of practice and be approved by the Midwifery Advisory Council (MAC).</p> <p>Under no circumstances should the level of physician oversight that DHEC tried to push in 2015 be repeated, as that would shut down the legal homebirth route in SC, and result a protest similar to December 2015 protest at Bull St.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
3. Cyndi Rosenblatt	General	<b>Partially Adopted.</b> Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and within the scope of practice.
The midwives should be practicing under the scope of practice established by The North American Registry of Midwives. They should be permitted to practice independently and exercise professional judgement to care for their patients with full scope, including suturing, and IVs.		
NAME	SECTION	DEPARTMENT RESPONSE
4. Judy Fry	General	<b>Partially Adopted.</b> PALM's recommendations were considered in the development of the regulation.
I fully support the revisions suggested by PALM.		

NAME	SECTION	DEPARTMENT RESPONSE
5. Irena Freystaetter, LM, CPM	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; IV Fluids - Adopted, 1200.B.8. Medication for GBS - Adopted, 400.C.2, 1200.B.7. Injections - Adopted, 400.C.4. Vitamin K - Adopted, 1200.B.4. National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and within the scope of care.</p>
<p>Hello, I am a Certified Professional Midwife currently licensed in South Carolina. I moved recently from Texas, where I was also a Licensed Midwife. I would like to propose that in the interest of providing quality care which meets the basic standard of care for maternity and newborn services for low risk patients the South Carolina midwifery laws be amended to include the following: After training and certification standard for other health professions (EMT, for example), a midwife should be allowed to place an IV line and give the patient fluids in labor as needed and to give IV prophylaxis for Group B Streptococcus. In keeping with the standard of care recommended by the CDC and ACOG for the treatment of GBS positive patients in the prevention of Early-Onset Group B Streptococcal Disease, the medications necessary for IV GBS prophylaxis should be added to the medications the midwife is allowed to administer. (<a href="https://www.cdc.gov/groupbstrep/guidelines/index.html">https://www.cdc.gov/groupbstrep/guidelines/index.html</a>, <a href="https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/02/prevention-of-group-b-streptococcal-early-onset-disease-in-newborns">https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/02/prevention-of-group-b-streptococcal-early-onset-disease-in-newborns</a>) After training consistent with NARM standards, the midwife should be allowed to suture first and second degree lacerations of the vagina and perineum. In keeping with national and international standard of care for the prevention of Vitamin K Deficiency Bleeding (VKDB), the midwife should be allowed to administer intramuscular (IM) vitamin K injections for the newborn after training in intramuscular injections. (<a href="https://www.healthychildren.org/English/ages-stages/prenatal/delivery-beyond/Pages/Where-We-Stand-Administration-of-Vitamin-K.aspx">https://www.healthychildren.org/English/ages-stages/prenatal/delivery-beyond/Pages/Where-We-Stand-Administration-of-Vitamin-K.aspx</a>) I look forward to serving the women of South Carolina and hope you will consider these revisions to your regulations so that I can provide quality care at the national standard level.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
6. Carla Billings	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; IV Fluids - Adopted, 1200.B.8. Catheters - Not Adopted, it is not within the scope of practice due to the fact that it is a medical procedure with risk for infection. VBAC - Not Adopted, due to prior memo published December 15, 2010 titled "Vaginal Birth After Cesarean (VBAC) at South Carolina Licensed Birthing Centers".</p>
<p>To who it may concern:  I'm a mother of five, three of which were delivered by a licensed midwife. I help women through the birthing process as their doula. I see the need for midwives and think they need to remain autonomous practitioners, able to use our entire skill set and training which includes but it not limited to sutures, IV fluids, and intermittent catheters. Being able to attend women who are having vaginal births after cesarean if they fall into other criteria showing they are healthy and low risk. I'm hoping there will be more well trained and advanced midwives available to my four daughters.  Thank you</p>		
NAME	SECTION	DEPARTMENT RESPONSE
7. Sheila Dell	General	<p><b>Partially Adopted.</b>  PALM's recommendations were considered in the development of the regulation.</p>
<p>PALM and MAC are the organizations that represent the LM community and they should be Center Stage in the recommended changes not OBGYNs or even MFM. We value our license it is our lively hood. We are educated/trained professionals. I have reviewed the proposed changes by PALM and agree. Our outcomes are way better than hospitals. View the real stats and you will see. We transfer appropriately. Please value our input. Thank you.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
8. Heidi Johnson	General	<p><b>Partially Adopted.</b>  The comment regarding the process by which DHEC revises the regulation is not a comment regarding revision of the regulation text but rather the process. This regulation does not require the oversight by a physician. The third comment is outside the scope of this regulation.</p>
<p>Please allow the Midwifery Advisory Counsel (MAC) to actively participate in regulation revisions. In order to maintain community birth options and safety in South Carolina, it's important that: 1) DHEC recognize the MAC authority and expertise as, "for the purpose of reviewing and advising the Department regarding matters pertaining to the training, practices, and regulation of midwives in South Carolina." 2) Midwives retain their autonomy to practice independently without direct supervision by other professions, such as physicians. 3) That hospital regulations give equal access to midwife patients for streamlined care when higher resources become necessary.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
9. Lisa Byrd	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; IV Fluids - Adopted, 1200.B.8. Medication for GBS - Adopted, 400.C.2, 1200.B.7. National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and within the scope of practice. PALM's recommendations - Partially Adopted, PALM's recommendations were considered in the development of the regulation.</p>
<p>As a member of the SC Licensed Midwife community since 2004 and a member of The Midwifery Advisory Counsel (MAC), I would like to go on record saying that I fully support the changes to regulation 61- 24 as proposed by the Palmetto Association of Licensed Midwives (PALM). Historically, South Carolina has been a front runner in the regulation of community level Midwives and as such, should improve regulation 61-24 to come in line with the national standards as outlined by NARM, MANA and NACPM, the professional organizations for certified professional midwives throughout the nation. Large issues that I believe warrant careful consideration and revision are the topics of 1) suturing minor lacerations in the home and 2) the ability to follow the national standard of care in rare cases that need IV Fluids for Blood volume expansion or IV Antibiotics for GBS prophylaxis, in collaboration with our medical consultant. Licensed Midwives should be able to provide the standard of care that is expected by the medical community and by our patients. I ask that DHEC align itself with National standards for the purpose of patient safety and reduction of risk.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
10. Emily Graham	General	<p><b>Not Adopted.</b>  The regulations were amended as required by statute for five year reviews.</p>
<p>The regulations are sufficient as they are. No changes are required to 61-24 However, I propose amending the memo regarding LMs attending VBACs (vaginal births after cesarean) at home or in birth centers. The literature referenced in the memo is outdated and many other states allow for at least some women planning VBACs to use the midwifery model of care to plan their out-of-hospital births with good outcomes. Refusing to alter this memo results in many women with a previous cesarean (even those with a history of uncomplicated vaginally births) to have their birth options drastically limited to hospital birth or unattended homebirth.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
11. Alexandra Wagner	General	<p><b>Partially Adopted.</b>  PALM's recommendations were considered in the development of the regulation.</p>
<p>I am in full support of the recommended changes that my professional organization, Palmetto Association of Licensed Midwives (PALM) has prepared and submitted.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
12. Kristyn Leonard	General	<p><b>Partially Adopted.</b>            Informed Consent - Partially Adopted, Informed Consent has been added, Section 1000. The risk status is defined in 101.V and in the Scope of Practice, in Section 400, and also in Sections 900, 1100, and 1300.</p>
<p>I would like to see regulations that respect the autonomy of the patient and informed consent of both the expecting family and the midwife. Midwives should not be forced to take on clients they deem too risky for their own comfort, but families have the right to choose their birth setting and the risks they are comfortable taking, recognizing that all births carry risks. There may be a more experienced midwife that is comfortable with taking care of a family that a less experienced midwife may not be. That doesn't mean the family should be forced out of all midwifery care. Risk status is something that should be taken into consideration by both the family and the midwife they are considering hiring. There are already regulations in place that require a second opinion, by another medical provider, on risk status. If all parties are in agreement and comfortable with the risks being taken, regulations alone should not prohibit midwifery services or out of hospital birth. This is something that would be easily accomplished if DHEC would listen to the MAC. No regulations should be put into place without input from those impacted by the regulations. In this case I mean practicing midwives and childbearing consumers. All proposed regulations should first be presented to the MAC for approval before final implementation.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
13. Sara Edwards, Birth Doula and Student Midwife, Angel Works Wellness Services	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements, be certified by NARM, and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a student-midwife. South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. Prenatal (including birth and postpartum) care should be decided based on informed consent and refusal and discussions between the patient and the Midwife, as well as other healthcare professionals, without over-supervision of my Midwife.</p> <p>CPM's are trained and proficient in many skills but according to the current regulations are not able to perform.</p> <p>Some examples of the updates that need to be made-</p> <ol style="list-style-type: none"> <li>S. Midwives should be allowed to suture, potentially saving patients unnecessary trips to the hospital.</li> <li>2. Midwives should be allowed to start an IV in an emergency.</li> <li>3. The Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ol> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
14. Jennifer Kitchton CPM, LM	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; PALM Recommendations - Partially Adopted. PALM's recommendations were considered in the development of the regulation. Hemorrhagic Medications - Adopted, 400, 1200. Out of state physicians - Adopted, 1300.A</p>
<p>To Whom it May Concern:</p> <p>As a midwife these are the things right away that I see that need to be updated and changed. I have also attached PALM's recommendations as I am in agreement with these changes as well and they have spent an enormous amount of time putting this together.</p> <ol style="list-style-type: none"> <li>1. Midwives should be allowed to administer medications without having to consult a doctor for control of postpartum hemorrhage. We lose precious time if we have to consult over a mom who is in need of medication that has already been prescribed to them by a physician.</li> <li>2. Midwives should be allowed to administer an IV to moms in labor if they need it or in case of an emergency.</li> <li>3. Midwives should be able to suture 1st and 2nd degree tears if needed postpartum, potentially saving them a trip to the hospital.</li> <li>4. Midwives should be able to administer a Vitamin K shot if a mom requests it.</li> <li>5. Midwives should be able to consult healthcare providers (not just a doctor) in our state as well as neighboring states as many of us live right near the border and may want or need to use services in other neighboring states.</li> </ol>		

NAME	SECTION	DEPARTMENT RESPONSE
15. Irena Freystaetter, LM, CPM	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; IV Fluids - Adopted, 1200.B.8. Medication for GBS - Adopted, 400.C.2, 1200.B.7. Vitamin K - Adopted, 1200.B.4. National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice.</p>
<p>Hello,</p> <p>I am a Certified Professional Midwife currently licensed in South Carolina. I moved recently from Texas, where I was also a Licensed Midwife. I would like to propose that in the interest of providing quality care which meets the basic standard of care for maternity and newborn services to low risk patients the South Carolina midwifery laws be amended to include the following:  After training and certification standard for other health professions (EMT, for example), a midwife should be allowed to place an IV line and give the patient fluids in labor as needed and to give IV prophylaxis for Group B Streptococcus.</p> <p>In keeping with the standard of care recommended by the CDC and ACOG for the treatment of GBS positive patients in the prevention of Early-Onset Group B Streptococcal Disease, the medications necessary for IV GBS prophylaxis should be added to the medications the midwife is allowed to administer. (<a href="https://www.cdc.gov/groupbstrep/guidelines/index.html">https://www.cdc.gov/groupbstrep/guidelines/index.html</a>, <a href="https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/02/prevention-of-group-b-streptococcal-early-onset-disease-in-newborns">https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/02/prevention-of-group-b-streptococcal-early-onset-disease-in-newborns</a>)</p> <p>After training consistent with NARM standards, the midwife should be allowed to suture first and second degree lacerations of the vagina and perineum.</p> <p>In keeping with national and international standard of care for the prevention of Vitamin K Deficiency Bleeding (VKDB), the midwife should be allowed to administer intramuscular (IM) vitamin K injections for the newborn after training in intramuscular injections. (<a href="https://www.healthychildren.org/English/ages-stages/prenatal/delivery-beyond/Pages/Where-We-Stand-Administration-of-Vitamin-K.aspx">https://www.healthychildren.org/English/ages-stages/prenatal/delivery-beyond/Pages/Where-We-Stand-Administration-of-Vitamin-K.aspx</a>)</p> <p>I look forward to serving the women of South Carolina and hope you will consider these revisions to your regulations so that I can provide quality care at the national standard level.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
16. Amanda Walton	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a woman who prefers homebirth to hospital birth and has a deep appreciation for the Midwifery standard of care.</p> <p>I trust my midwife’s judgement concerning my health and the health of my child in prenatal, labor, birth, and postpartum care.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
17. Elizabeth York	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a high school principal, a mother of two, and an educated citizen.</p> <p>I trust my midwife's judgement.....</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
18. Laureen Hudson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice ;  Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a consumer of birth services, and an advocate for healthy birthing.  I trust my midwife's judgement. With both of my home births, my midwife was the knowledgeable professional who guided us to a safe, healthy birth. My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  Some examples of the updates that need to be made-</p> <ul style="list-style-type: none"> <li>• My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital. Suturing is a basic skill, and disallowing it is folly.</li> <li>• My Midwife should be allowed to start an IV in an emergency.</li> <li>• Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

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19. Emily Carroll	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a citizen of Rock Hill, SC. Mother of three, expecting my 4th in November.</p> <p>I trust my midwife's judgement fully, I actually trust her care more than past obstetricians I have been in the care of.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
20. Casey Babson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a pregnant mother.</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
21. Craig Babson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a father of 4, 2 were home births, all of which were birthed with the help of Midwives in South Carolina.</p> <p>I trust my wife's midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
22. C. Babson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a father of three, soon to be four. We have had one homebirth with another one planned for our current baby. All of our children have been birthed with the help of Midwives in South Carolina.</p> <p>I trust my wife’s midwife’s judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My wife’s care should be decided based on informed consent and refusal and discussions between her and her Midwife, and her other healthcare professionals, without over-supervision of her Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My wife’s Midwife should be allowed to suture, potentially saving me, my wife and newborn child an unnecessary trip to the hospital.</p> <p>My wife’s Midwife should be allowed to start an IV in an emergency.</p> <p>My wife and her Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p> <p>Sincerely,</p> <p>C. Babson</p>		

NAME	SECTION	DEPARTMENT RESPONSE
23. Madeleine Nashland	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a pregnant woman and want women to receive the care they deserve through Midwives if they wish so choose. I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
24. April Hall-Gill	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>My name is April Hall-Gill, I am a mother of 5 girls, Grandmother of 2 girls that were all born into the hands of a midwife here in Sc. I am a birthworker and aspiring midwife.</p> <p>I trust our midwife's judgement.....</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>Womens care should be decided based on informed consent and refusal and discussions between the birthing person and her Midwife, and my other healthcare professionals, without over-supervision of her Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>Midwives should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>Midwives should be allowed to start an IV in an emergency.</p> <p>The birthing person and her Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
25. Aurora Thompson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>As an early development educator that works with and advocates for families in all stages of their growth, I strongly believe that South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. Decisions affecting an expectant mother’s care should be decided based on her informed consent and refusal and discussions between her and her Midwife, and her other healthcare professionals, without a debilitating over-supervision of her Midwife.</p> <p>SC Licensed Midwives are well-trained medical professionals that should be allowed to suture, potentially saving unnecessary trips to the hospital. They should be allowed to start an IV in an emergency. They and their consulting practitioners should also be able to tele-visits, especially now during a pandemic</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
26. Amanda Hynes, CD(DONA), LCCE	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a business owner X2 and homebirth mother X2.  I'm also a doula and childbirth educator.  I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24.  I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
27. Rachel Todd	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>As a mother of 6 beautiful, healthy children, ALL of whom were born at home under the care of midwives, I sincerely believe that South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My prenatal care should be decided based on informed consent and refusal and discussions between myself and my midwife, and my other healthcare professionals, without over-supervision of my midwife.</p> <p>Here are some examples of the updates that need to be made:</p> <ul style="list-style-type: none"> <li>- My midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</li> <li>- My midwife should be allowed to start an IV in an emergency.</li> <li>- Myself and my midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please, and trust their wisdom!</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
28. Melissa Walker-Dushak	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a concerned consumer.</p> <p>I trust my midwife's judgement. She helped me home-birth two children.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
29. Dean Klingenberg	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a stakeholder in midwifery care. As a home birth husband and father, I trust the judgement of our midwife and find it essential she be permitted to do the following services;</p> <p>Our Midwife should be allowed to suture, potentially saving my wife an unnecessary trip to the hospital.</p> <p>Our Midwife should be allowed to start an IV in an emergency.</p> <p>My wife and our Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My wife's care should be decided based on informed consent and refusal and discussions between her and my Midwife, and our other healthcare professionals, without over-supervision of my Midwife.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
30. M. Marston St. John	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of three children and a health care provider.</p> <p>I trust my midwife's judgement because of the years of training, experience, and relationships with MDs that she has cultivated.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
31. Ann Fletcher	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother and business owner, and I reside in Rock Hill. I had a home birth with a licensed midwife last year, and I plan on doing the same with subsequent pregnancies.</p> <p>I trust my midwife and her judgement. She took great care of me both prenatally, and postnatally...better care than I felt I was given with my OBGYN. My midwife was extremely knowledgeable and made wise decisions for me and my child.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife. I feel that this would be a hindrance to my care.</p> <p>Some examples of the updates that need to be made:</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
32. Mary Louise Trask	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother and a grandmother and I am a stakeholder in SC Midwifery Care because I firmly believe that a woma should have choices for her prenatal and birth experiences.</p> <p>I trust the wisdom and experience of midwives because I have witnessed first hand how helpful and supportive they can be. My daughter’s midwife, Nicole Lavallo, was a godsend before and during my daughter’s birth experience.thoughts</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>Any woman’s care should be decided based on informed consent and refusal and discussions between herself and her Midwife, and her other healthcare professionals, without over-supervision of her Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>Midwives should be allowed to suture, potentially saving women an unnecessary trip to the hospital.</p> <p>Midwives should be allowed to start an IV in an emergency</p> <p>A woman and her Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
33. Andrea Simcik	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of two children in South Carolina. My youngest son was born in March 2020 in my home by my midwife.</p> <p>I trust my midwife’s judgement. The treatment I received from her was extremely professional and an excellent experience.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
34. Kimberly Tallant	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mom of two who has had one hospital birth and one home birth. My home birth experience was 100 times better than the hospital where they were pushing me to get a c-section and deliver the baby as fast as I could before their shift ended. My home birth was all about me and the baby, not about the Dr ending her night shift.</p> <p>I completely trusted my home birth midwife's judgement, it was very relaxing and my midwife took all measures she was allowed to make sure me and the baby were safe.</p> <p>Especially during these times I think home birth options are very important. It greatly reduces the rate of contacting viruses that are spreading right now. If all criteria are met for the mom and baby then South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
35. Katie Samaha	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and provide care within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a stakeholder to birth and midwifery services in South Carolina. I have birthed children both at home and in a hospital, based on the course of each pregnancy and the needs of myself and each child.</p> <p>I trust my midwife’s judgement!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my midwife, and my other healthcare professionals, without over-supervision of my midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
36. S. Joseph Samaha	General	<p><b>Partially Adopted.</b>            Informed Consent - Partially Adopted, Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; VBAC - Not Adopted, due to prior memo published December 15, 2010 titled "Vaginal Birth After Cesarean (VBAC) at South Carolina Licensed Birthing Centers".</p>
<p>To whom it may concern,</p> <p>I am a stakeholder to birth and midwifery services in South Carolina. I am both a homebirth dad, hospital birth dad, full term dad, micropremie dad, natural birth dad, and c-section dad.</p> <p>I trust my midwife's judgement! And I trust my wife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My wife has successfully birthed full term at home, and should that opportunity present itself again I would like to see her able to work with her midwife to birth at home again, regardless of her previous c-section.</p> <p>Her care should be decided based on informed consent and refusal and discussions with her midwife and other healthcare professionals. Without over-supervision of her midwife.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



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37. Lauren Clark	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a South Carolina resident and mother of two, one born within the hospital and one in the care of our beloved midwife in our home. I felt more secure in the care of my midwife who specializes in a natural birth, than within the four walls of my hospital room of my first birth.  I trust my midwife’s judgement.....  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

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38. Melissa Field	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a resident of the Lowcountry where I have lived for 22 years now. Two of my children were born here, one with the expert assistance of a trusted midwife.</p> <p>I believe firmly that childbirth belongs at home, first and foremost. I believe that proper prenatal care can also be provided at home by a trained midwife. Look at examples from other countries where childbirth is primarily at home, where mother and baby mortality rates are lower, where midwives are viewed at crucial part of the healthcare community.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my midwife, and my other healthcare professionals, without over-supervision of my midwife.</p> <p>My midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

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39. Danelle Anderson Welzig	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother. I chose to hkmebirth because of demonstrated white coat hypertension during the course of care under my OB.</p> <p>I trusted my midwife’s judgement. My first was a 9 minute shoulder dystocia. This was expertly managed. No transferred required, no broken clavicle, no tearing. Excellent APGARs with appropriate timeframes. My second came fast. I sustained a second degree tear. I chose not to transfer for stitches. I again I expert care and had no issues with respects to healing.</p> <p>South Carolina Licensed Midwives need to be able to and should be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal, and discussions between myself, my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

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40. Crista Granic	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of care; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother who has given birth three times; two in a hospital. My most recent pregnancy and birth was under the care of a midwife for a home birth here in South Carolina. It was hands down my favorite pregnancy and delivery!</p> <p>I trust my Midwife's judgement. My husband and I chose her to be our caregiver after hearing her personal and professional background, her education certifications, her philosophy on pregnancy and child birth, how we believed we would be listened to as her patients, and how we got along with her (bedside manner). I will repeat the statement; I trust my Midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
41. Margarita Anderson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>My name is Margarita. I am a mother, a sister, and an advocate of natural birth. I have had 3 home births, 2 of which were in the state of S.C.</p> <p>I believe South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

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42. Jennifer Thompson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a stakeholder for the future of birth choice in S.C. and have been very pleased with my midwifery experiences.</p> <p>I trust my midwife’s judgement.....</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

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43. Sarah Collins	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a woman who chose a midwife and home birth for my third child.  I trusted my midwife’s judgement and felt that my health, safety and mental well being were thought of at all times.  Please consider the following:  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

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44. Emileigh Thynes	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a home birthing mother, mother of 6!</p> <p>I trust my midwife's judgement and would never give birth in a hospital unless it was deemed to be needed by my MIDWIFE AND other health professionals together.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made:</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



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45. Elizabeth Yang	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>Hello,  I have had 6 home births and they have been wonderful experiences and I think this choice should be made easy for others who are planning to have children. Since the beginning of my pregnancies, DHEC has treated home births unfairly and attempted to punish those who make this choice by making it more risky and difficult. Home birth should be supported and recommended, though I did not write the below letter, it expresses the changes I would like to see to that end.</p> <p>I am a 6 time homebirth mother with plans for more.  I trust my midwife's judgement.....  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

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46. Nina Krammer	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern:</p> <p>I am a mother and expectant mother and I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

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47. LaTrice S. Ryant	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother who homebirths.</p> <p>I trust my midwife’s judgement to provide the care that myself and my baby needs during my pregnancy, during my labor and delivery and afterward.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
48. Jacqueline Jandula	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a home birth mother and a stakeholder in midwifery care.</p> <p>My midwife has 30 years of first-hand experience which is comparable to any other health care professional. I completely trust her judgment. She is knowledgeable, professional, thorough and never careless while supporting me and my decisions. I feel confident that she has mine and my child's safety as her first concern in our care.</p> <p>I am concerned about her not being able to suture me in future, as I tore pretty well with my first child and you can imagine what a stress that can be to then have to then go find help to do a simple suture (also the tender situation of moving when torn). I should be relaxed and enjoying my experience. My midwife is more than capable of giving me a few sutures in the comfort of my own home. This is certainly an issue that can easily be changed within DHEC regulations. ESPECIALLY in light of the pandemic going on. I would never want to go to the hospital for a simple procedure during a pandemic when my midwife can take care of it.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgment, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
49. Dawn Oliver	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a birth and postpartum doula  I trust my midwife's judgement. We need I professional duties especially now at this time of need.  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.  Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
50. Anna Klingenberg	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a home birth mother and a stakeholder in midwifery care. I completely trust my midwife's judgement. In my previous experience she was extremely knowledgeable, professional, thorough and never careless while supporting me and my decisions. I always felt confident that she had my and my child's safety at the forefront of our care. The care I received exceeded my expectations.</p> <p>However, there are instances where she was not able to offer me the best care due to DHEC regulations. For example, I was not able to receive suturing from my midwife post delivery which was a complete inconvenience and stress on me and my family. In the time that I should have enjoyed and bonded with my baby, I was consumed with making arrangements to transfer for a procedure that could have easily been done in the comfort of my home as I know my midwife has been thoroughly trained to do this procedure. As many can imagine, transferring in the delicate condition of needing sutures is uncomfortable and unnecessary.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
51. Ayla Burt	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a homebirthing mother, doula, and birth photographer.</p> <p>I trust my midwife’s judgement implicitly and beyond a shadow of a doubt.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
52. Rhoda Brown	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a concerned citizen,  I trust my midwife's judgement because she is skilled, educated and qualified.  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.  My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.  Some examples of the updates that need to be made-  My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.  My Midwife should be allowed to start an IV in an emergency.  Myself and my Midwife should have the ability to utilize tele-visits that are being perfected during the current pandemic.  Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.  Sincerely, Rhoda Brown</p> <p>If you are not writing from SC, but you or your children or friends could ever possibly need care here, you are still a "stakeholder". Please help the moms and babies of SC!</p>		



NAME	SECTION	DEPARTMENT RESPONSE
53. Sarah and Mike Cain	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To Whom It May Concern,</p> <p>I am a mother do three children who is very grateful I have had the opportunity to birth all three of my children at home woth very knowledgeable and supportive midwives. I had great experiences in all three of my births with my midwives.</p> <p>I trust my midwife’s judgement in all aspects of my care and their expertise in their field. I have checked their credentials. I know they are well educated and qualified to do what they do. When I have a concern, the questions have been fielded appropriately and decision made by myself for my greatest desires based on my beliefs.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital. In one of my births, my child was born on Easter and the last place I wanted to be was a hospital</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself, my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
54. Wendy Kovac	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a South Carolina resident who has had two hospital births and one home birth.</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
55. Asya Peneva	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am Asya Peneva</p> <p>I trust my midwife's judgement</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
56. Sarah Davis	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>Hello,</p> <p>My name is Sarah Davis. I am a resident of Rock Hill, South Carolina and a mother of 2 with a third child due in August. My midwife, Lori Gibson, delivered my second child 2 years ago in my home, and we plan for her to deliver my third child in our home in just a few months. I can't imagine bringing my children into the world any other way. My home birth was the most beautiful, empowering experience of my life.</p> <p>I trust my midwife's judgement completely. I believe she has and will continue to provide the highest level of care that she is legally allowed to provide. That's where you come in.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>She is trained and more than capable to complete these procedures effectively, all which benefit me and my baby, prevent unreasonably expensive hospital visits, and keep me at home where I can nurse and care for my newborn baby who needs my presence, attention and care to thrive.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time. Please feel free to call or email me for additional input from a pregnant mother who has home birth experience with a licensed midwife.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
57. Olga Meachum	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>My name is Olga Meachum. I live in SC and am excited to have a homebirth with my midwife soon this year.</p> <p>I trust my midwife's judgement. Her experience and dedication supported and educated me and my husband through this pregnancy.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
58. Elisabeth Parker	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mom of four, expecting our fifth child. I've used a midwife for all of my children's births.</p> <p>I trust my midwife's judgement!!!!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
59. Emily N. Evans	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother, wife, childbirth educator, and a healthcare professional.</p> <p>I birthed two children in this state under the watchful, professional eye of a midwife. I wholeheartedly trust my midwife's judgement when it comes to the safety of the birth of my child.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>The care I receive should be decided based on informed consent and refusal, discussions between myself and my Midwife, (and any other healthcare professionals) without any over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
60. Kim Bates	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of two home birth children.</p> <p>I trust my midwife's judgement to suture and provide emergency medical care if necessary.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
61. Talita Emery	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of 2. Had my 2nd child at home in SC.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
62. Meka Hall, CNM	General	<b>Partially Adopted.</b> Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Televisits - Adopted, Nothing in this regulation prevents televisits. All comments received were considered and addressed as being adopted, not adopted, or partially adopted.

To Whom it May Concern:

I am writing as a Georgia Nurse Midwife to support my fellow Licensed Midwives in South Carolina. I'm sure all midwives and legislatures are vested in providing all mothers with the best care possible. It is no ones intention to delay valuable care to women birthing in the State of South Carolina yet when you place provisions in the law that prevent or delay basic care that is appropriate for the home setting this is what one happens. Regardless of weather one agrees with a woman's choices to birth her baby in the home or not she deserves the best care that can be safely rendered in the home such as:

D. first and second degree repairs can be safely done in the home with lidocaine.

B. If a mom requires an IV this task should not be delayed until paramedics arrive or the woman reaches the hospital valuable time is wasted for a task that can be safely initiated in the home and mom could be stabilizing while awaiting transport or being transported.

C. We are in a pandemic midwives should have access to tele-visits the use of technology is imperative to all healthcare workers.

D. Please allow your changes to regulation 61-24 to reflect the voices of women choosing home birth in South Carolina. When South Carolina makes it hard for their midwives these women travel next door to Georgia seeking care this should not be the case let all listen.

NAME	SECTION	DEPARTMENT RESPONSE
63. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	General	<b>Not Adopted.</b> This issue is beyond the scope of this regulation.

Coordination with other DHEC regulations

Midwives and birth centers need to be added into the standard perinatal levels of care for transfer purposes in Reg. 61-16: Listing all other maternity providers who may potentially need a level of care transfer but omitting midwives and birth centers is discriminatory. Lives will be saved by perinatal levels of care access, but without mandatory inclusion by regulation, midwife patients are susceptible to delays in care. This is an unacceptable safety oversight. Assess to perinatal level of integration of midwives is associated with significantly higher rates of physiologic birth, less obstetric interventions, and fewer adverse neonatal outcomes provided that the full exercise of scope of practice, autonomy, self-regulation, and collaboration across disciplines is maintained.

NAME	SECTION	DEPARTMENT RESPONSE
64. Sara Ponds	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of two beautiful boys who were both born at home with the assistance of a midwife. I fully trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, but there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
65. Emily Padgett	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of three children born at our home, a resident of Richland county and active member of our community.</p> <p>I trust my midwife's judgement to care for me throughout my pregnancies and during the birth of my children. After being seen by a traditional OB/GYN and a Midwife, the level of care doesn't even compare. My doctor barely had time to check my stats on the computer in my 5 minute visit while my midwife spent an hour each visit coaching me on nutrition, pain management and preventative care. Traditional care does nothing to prevent poor outcomes, but hopes to treat them. Midwifery care works extensively to prevent health issues for mother and baby.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
66. Jessica Graham Robinson, Yogi and Wholistic Health Coach, Sacred Space Healing Arts	General	<p><b>Partially Adopted.</b> Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a concerned mother.</p> <p>I trust my midwife's (Nicole LaVallee) judgement!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time!</p>		

NAME	SECTION	DEPARTMENT RESPONSE
67. Tommaso Mini	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a stay-at-home husband, father of three, and live in North Myrtle Beach, SC and I trust my midwife's judgement, experience and expertise.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
68. Jeremiah Simcik	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a father of 4 children. My fourth child was born in March 2020, in my home, through the care and oversight of a midwife in South Carolina. My three older children were each born in a hospital. It is my opinion that the home-birth with a midwife was the best experience of them all from the perspective of quality of care and focus on what’s best for my wife and child.</p> <p>I trust our midwife’s judgment. She provided outstanding care and knowledge throughout the entire process.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My wife’s care should be decided based on informed consent and refusal and discussions between my Midwife, my other healthcare professionals, and her as a patient, without over-supervision of our Midwife.</p> <p>Some examples of the updates that need to be made:</p> <ul style="list-style-type: none"> <li>• Midwives should be allowed to suture, potentially saving mothers an unnecessary trip to the hospital.</li> <li>• Midwives should be allowed to start an IV in an emergency.</li> <li>• Midwives and their consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgment, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
69. Kelly Ewalt	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a stay at home mother of 3 children. I used a CPM for my last child’s prenatal care, and it was by far the best prenatal care I have ever received!</p> <p>I trust my midwife’s judgement because she stays very current on her educational requirements for her certification plus more than what is necessary. She is VERY knowledgeable in her field of expertise and always has answers &amp; solutions for problems/ situations that arise. I trust her just as much, if not more in some ways than a medical obstetrician because she is knowledgeable in holistic &amp; natural alternatives as well as medical.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
70. Laura Smith	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>My name is Laura Smith and I live in North Myrtle Beach. I have successfully used a SC licensed midwife for all three of my children's births: 2004, 2009 &amp; 2015. They were all born in excellent health, thanks to the prenatal care and attention of our Midwife and they are still very healthy and thriving.</p> <p>Our midwife is absolutely fantastic. She's knowledgeable, experienced, personable and I trust my midwife's judgement completely with my life and the life of my children.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. South Carolina needs and deserves this level of service from our state's midwives. My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife. My Midwife should have all the tools at her disposal needed to keep her clients safe and well cared for, as much as the CPMs are allowed to do.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital. I tore with all three of my home births and my midwife was not allowed to suture me, a fairly simple procedure. This is ridiculous. After going through full labor and delivery at home, in order to complete the suture, I have to go to the hospital? And risk being exposed to germs that could affect me or my newborn child? Why? It's silly.</p> <p>My Midwife should be allowed to start an IV in an emergency. Another simple way midwives can aid in the health and well being of her clients. If CPMs can do it, EMTs can do it, Midwives can do it too. Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic. This is crucial not only for the health and wellness of the many pregnant women in South Carolina but also for the hospitals, so as not to overwhelm them with more patients, unnecessarily.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please. They know what they're doing and they are an incredible asset to the families of South Carolina.</p> <p>Expand their treatment choices, don't limit them.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
71. Reagan Blackburn	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a Reagan Blackburn</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
72. Oba Mubarak	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To Whom It May Concern:</p> <p>My name is Oba Mubarak</p> <p>I trust my midwife’s judgement far more than any other conventional health provider. She provides an unbelievable amount of support for my wife. Having a traditional birth in a hospital setting with unnecessary interventions and medications is not the way women were created to give birth; nor is it healthy for women. Natures processes should NOT be tampered with in any way as they are already perfectly designed.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs, without question. These Midwives are certified nurses. It is disrespectful and unjust to not to allow them to practice what they were educated and trained to do.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
73. Collette Harper	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>I am a Collette Harper.</p> <p>I trust my midwife’s judgement more so than any other healthcare provider. With that said, midwives are the greatest personal support during this time of uncertainly and provide a sense of relief to anyone with doubt. Midwives allow us women to do what women’s body’s were created to do. To give birth naturally with no unnecessary invention and medications. With such a life changing experience, women should all get to experience what I’ve experienced almost two times in my life. Giving birth and allowing my body to do what it KNOWS how to do. Midwives know the comfort, support and the best care for their patients with their well educated research and faith in what our body’s a capable of doing. For women who decide to go the healthier way, and give birth in a natural setting, midwives are the best choice possible. With that said, South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. There should be no unnecessary complications for Midwives to care for their patients who GREATLY trust their care and knowledge.  No women should be forced to give birth in a horrible hospital setting, unless they decided to do so.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
74. Pam Ponds	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>Good afternoon,  <b>THIS IS DUE BY 5 PM TOMORROW.</b>  <b>IT WILL TAKE LESS THAN 10 min.</b>  Please feel free to call me 24/7 today and tomorrow with any questions about this.  To whom it may concern,</p> <p>I am a SC resident. I have had a SC midwife as my primary care provider for the birth of all 3 of my children. I fully intend to use a midwife if I am pregnant again in the future</p> <p>I fully trust my midwife’s judgement. My midwife takes time to inform me of every choice throughout my pregnancy. She goes through each possible medication we might need, it’s uses and side effects. She takes the time to know mine and my husband’s wishes regarding our baby’s birth. I know if anything is wrong she will quickly and safely transfer me to the hospital. I know she fully understands her capabilities and her limits.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital. Suturing is a necessary procedure, but should not require hospital oversight. It would be ridiculous to wait in the ER or burden the system for such a tiny need.</p> <p>My Midwife should be allowed to start an IV in an emergency. This is necessary and not optional.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>PLEASE listen to our state midwives concerning the updates that need to be made to Regulation 61-24. Many of these ladies have been serving for +30years, and have attended hundreds of births in every situation possible. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
75. Kim Budlong	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mom who had an amazing experience giving birth to my beautiful son with the help of a wonderful midwife.</p> <p>I trust my midwife’s judgement throughout the whole process.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
76. Zevi Heffner-Gibson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a someone whose daily life is impacted by what my midwife does. I trust her judgement to make the decisions needed to keep me healthy.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. Because all women who receive treatment that takes care of them and their child should be the best for them.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife that hinders how quickly and proficiently I am being treated.</p> <p>Some examples of the updates that need to be made are that:</p> <ul style="list-style-type: none"> <li>• My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</li> <li>• My Midwife should be allowed to start an IV in an emergency.</li> <li>• Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
77. Kathleen Eve Aita Houpt, D.C., CACCP, Bluffton Family Chiropractic	General	<b>Partially Adopted.</b> Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.
<p>To Whom it May Concern,</p> <p>I am resident in the state of South Carolina as well as licensed and practicing chiropractor in the state of South Carolina. I also happen to be the mother of four children who were born at home with a license South Carolina Midwife.</p> <p>I trust my midwife’s judgement. My Midwife Nicole helped me through all four of my pregnancies and births. She made choices and helped us make choices that both protected myself and my children.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
78. Jenny Haller	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a Mother of five, a student midwife, home-birth advocate and resident of NC. I am an activist in legalizing and licensing accountability for midwives in all fifty states.</p> <p>I trust my midwife's judgement in this matter but also am actively educating myself on the surrounding state's legality. I'd appreciate your support in this regard.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. It is a goal of mine to see more regulation and accountability through SC and then, hopefully, extended into NC. You'd be a good example for us.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
79. Krista Wikstroem	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of two naturally birthed children.</p> <p>I trust my midwife's judgement to safely deliver babies as well as ensure mother's safety and well-being before, during or after labor.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
80. Ashley Shurter	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother,</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, but there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Give them their rights, give them their freedom!</p> <p>Midwives saves lives!!!</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
81. Tanya Kramer	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>I am a mother of 3 children, 2 of which were born at home with the aid and expertise of a Licensed Midwife.</p> <p>I trust my midwife's judgement!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
82. Elyse Waple	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a South Carolina resident.</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
83. Kimberly Grant	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To Whom It May Concern,</p> <p>My name is Kimberly Grant, and I want you to know that I trust my midwife's (Lori H. Gibson, CPM, LM, MBC Moonlight Birth, LLC) judgement on all matters relating to my pregnancy including prenatal care, birth &amp; delivery, and postpartum care.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent &amp; refusal and discussions between my Midwife, my other healthcare professionals, and myself, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made:</p> <ul style="list-style-type: none"> <li>-My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</li> <li>-My Midwife should be allowed to start an IV in the case of an emergency.</li> <li>-My Midwife, her consulting practitioner, and I should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state Midwives concerning the updates that need to be made to Regulation 61-24. I cannot fully understand all the nuances of a Midwifery Practice, and honestly no one can, except the experts. Thankfully there are many wise Midwives in South Carolina who do, and my Midwife, Lori Gibson, is definitely one of them. Please refer to their judgement! My wonderful Midwife can be reached at moonlightbirthservices@gmail.com &amp; 704-607-6776.</p> <p>Thank you for your time and consideration.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
84. Amanda Lecz	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mom.</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
85. Jacqueline Sequoia, MD MPH	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; IV Fluids - Adopted, 1200.B.8. National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice. Initial Licensure - Partially Adopted, 102.E</p>
<p>To whom it may concern:</p> <p>I am a board certified family physician living in Oconee County, SC. I have been practicing in this state since completing residency in 2013.</p> <p>Additionally, I have masters level training in public health in epidemiology so I understand the outcome data around birth, infection control, and facility safety.</p> <p>Most importantly, I have birthed three of my four children here in SC, at home with midwives.</p> <p>As a mother and physician, I have chosen to trust my midwife’s judgement in birth. For normal low risk birth, home is an equivalent to the hospital in terms of safety if certain criteria are met. It is a superior option for comfort and recovery of the mother and family.</p> <p>In the current pandemic, it is the SAFER place for the healthy low risk mother and baby to avoid infection.</p> <p>Data from cruise ships and hospitals in Northern Italy are showing us the hospitals are not safe for healthy individuals right now. This airborne virus is infecting people that aren’t even working with covid-19 patients through the ventilation system since it is airborne. In Georgia, a young healthy mammogram tech has died without any known contact or exposure to covid patients. Many facilities lack proper PPE and proper cleaning of facilities is practically impossible with airborne transmission.</p> <p>Now more than ever it is critical that healthy moms and babies be able to stay at home if they possibly can. The demand for homebirth is rising in this crisis.</p> <p>This pandemic has called attention to the need for remote provision of care. My midwife and her consulting physician should have the ability to utilize tele-visits with me to provide optimum supervision of my pregnancy and post-partum recovery.</p> <p>I call on you to ensure that South Carolina Licensed Midwives can meet the needs of women and babies by setting their practice standards to a level that matches national standards for Certified Professional Midwives. This should include suturing minor grade I and II perineal lacerations and starting intravenous fluids in an emergency.</p> <p>Any new midwives licensed in the state should be held to national CPM standards for training and practice.</p> <p>Having attended home births as the provider and having birthed at home three times myself, I am uniquely aware of the needs of birthing women and their midwives.</p>		



I trust my midwife's judgment and I believe midwifery care is an important component of maternity care.

I hope that SC will continue to ensure safe well trained midwives are available to meet the needs of our birthing mothers.

Thank you for your time.

NAME	SECTION	DEPARTMENT RESPONSE
86. Allison Zimmerman	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits. Full Scope - Adopted, Midwives are allowed to work within a scope of practice, Section 400.</p>
<p>To whom it may concern:</p> <p>In short: SC Licensed Midwives need to continue to be an available choice with up-to-date, usable guidelines that protect moms and babies. Please allow licensed midwives to work to their FULL scope of practice.</p> <p>I am a mom and looking at having another child in the near future.</p> <p>I trust my midwife's judgement immensely and will rely on her during any future births. I feel that I wasn't FULLY supported at my first birth and want a better experience for future births.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
87. Alicia Bradley Scott	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am someone who wishes to home-birth to avoid unnecessary interventions that a hospital would likely push.  I trust my midwife's judgement, including when she says it's time to go to the hospital.  South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
88. Valerie Herald Guerzon	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of a one-year-old who was delivered by home birth last year. It was very important to my husband and me to be in our own space. We had a great experience and intend to have our next child at home. I'm sure you are aware of the multitude of benefits of birthing babies at home so I will not spell them out here. I do want to make sure midwives have the support they need to do their job effectively.</p> <p>I trust my midwife's judgement. I was fortunate to have both midwives from the area at my birth. I felt I was in great hands given their years of experience and training. This is their job and their livelihood. Both are so familiar with the natural birthing process that they know exactly what stage of labor the mother is in, what signs cause concern and what to do to help move things along. One of the concerns was if I needed a small suture, which I didn't, they would not be able to do it. We had to discuss these things ahead of time to be aware of the risks and what we would do should the need arise.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
89. Richard Guerzon	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,  I am a first time dad who used a midwife for a home birth.  I trust my midwife's judgement to suture my wife, potentially saving me an unnecessary trip to the hospital and start an IV in an emergency.</p> <p>I believe my midwife and her consulting practitioner should also have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, but there are many wise midwives in South Carolina who do. Please refer to their judgement.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
90. Rose M. Tsakanikas	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>Dear Ladies and Gents,</p> <p>I am a young woman and greatly concerned about having the freedom to exercise my right to choose who will provide me with healthcare. I have had the privilege of knowing several midwives. Several of my family and friends have used them as them as their primary caregiver during pregnancy. They are also my primary choice for healthcare during pregnancy.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>I sincerely believe that the services I am provided by midwives and they provide to other women would be greatly aided by these changes.</p> <ul style="list-style-type: none"> <li>• My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</li> <li>• My Midwife should be allowed to start an IV in an emergency.</li> <li>• Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</li> </ul> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. Both you and our midwives of the common goal of increasing the quality of care we receive.</p> <p>Thank you for your time and prioritizing protecting women's health.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
91. Holly Johnson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother, a wife, an educated female.</p> <p>I trust my midwife's judgement implicitly. Having used a midwife for my daughter's birth, I would absolutely do it again.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
92. John Johnson	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a father &amp; husband</p> <p>I trust my midwife's judgement implicitly. We used a midwife for the birth of our daughter and it was an amazing experience unmatched by anything a hospital could provide. We are planning to do this again for our next child.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time and please do not hesitate to contact me with additional questions.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
93. Leandra Cail	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a home-birthing mother in South Carolina. I have been so blessed by the care I have received from the midwives who have so carefully followed my pregnancies and postpartum. I am also currently a licensed apprentice working to attain my midwifery license.</p> <p>I believe that South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. Currently the regulations in South Carolina restrict midwives from the Scope of Practice they are required to have to hold their CPM license.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
94. Susan Smart	General	<b>Partially Adopted.</b> PALM's recommendations - Partially Adopted, Palm's recommendations were considered in the development of the regulation. Other credentialing bodies - Adopted, 104.E.1

Dear Sir / Madam,

In this season of Coronavirus Pandemic, it is ever more apparent that midwives are a needed and necessary part of healthcare in SC and across our nation. It is unfortunate that childbirth has, by custom, become primarily a hospital based event. In fact, healthy young women who are having a normal, low risk pregnancy should stay in the comfort and safety of their own homes, particularly now when healthy people are being placed in places of great COVID-19 danger. Childbirth has become a curious situation in which healthy people are expected to enter a facility for the sick and injured in order to experience a normal life event.

Our government should encourage the use of midwives and facilitate in every way possible their access, their ability to work with and across other health facilities and providers and to facilitate all midwifery skills and abilities to and for the women they serve. DHEC should ensure that other healthcare entities provide and enable midwifery care and work towards eliminating stumbling blocks to their care. This access isn't provided by placing more restrictions on midwifery care or supervision but enacting legislation that require other healthcare providers and facilities do their jobs in providing care to everyone that needs them. That is a public sacred trust that should be provided.

I support the Palmetto Association of Licensed Midwives proposals that have been reviewed by the majority of actively practicing midwives in our state. I urge DHEC to use this document in entirety as the midwives themselves are the ONLY providers in this state who are the experts in low risk birth in the out of hospital setting.

In addition to that document, I encourage DHEC to keep the ability of other credentialing bodies to be recognized for SC licensure. I am aware of other faith based organizations with national and international connections that have been working to establish a credentialing process with even more requirements than current CPM requirements. This is especially important as closely aligned organizations within the CPM world have become politically partisan and forcefully promoting policies and positions that many CPMs find objectionable and at odds with their faith, thereby violating their rights to free exercise and expression of their faith. It is, also, important that the Midwifery Advisory Council is maintained as the appropriate advisory council to DHEC as it is the source with proper representation of midwives who can advise DHEC on current midwifery standards and how to give physically and emotionally safe care to women and babies.

Thank you for your attention to these recommendations.

NAME	SECTION	DEPARTMENT RESPONSE
95. Marylee Ewell	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a South Carolina mother whom believes in birthing naturally, in a comfortable and safe environment for the mother and child. I have had two homebirths and could not have felt comfortable without my knowledgeable Midwife by my side the entire time. I could list all the reasons why I chose a homebirth but the list would be overwhelming. It was a choice I made and I have only positive memories and experiences from the whole process. It was a beautiful time, that every mother should experience if they CHOOSE. Birthing how a woman chooses is very important for the mother and child. It needs to be a choice and option for birthing mothers. Many pregnant women do not even realize that birthing at home is an option in many pregnancies. Hospitals are filled with sicknesses, and people on their deathbed. Hospitals are filled with strangers and many, many people. The birthing process is something that is special and should be limited to whom the mother wants present during that special time. It is every woman's right to birth how they choose!</p> <p>The last month with the Coronavirus has been a scary time for everyone, especially pregnant mothers who plan to birth in the hospital. They may want their spouse or other family members present. At this time, it does not seem like that will be an option, for obvious reasons. It does concern me that mothers are being sent to a hospital to birth where Coronavirus cases are more present, and growing day by day. Why would we send a pregnant mother and her newborn baby into a petri dish with Coronavirus? It baffles me and is frustrating. To birth at home is the most safe and natural way to birth, but more importantly during a outbreak. History repeats itself. At some point in time, there could possibly be a worse outbreak than the Coronavirus. If birthing at home became a more known option to mothers, then this would be one hurdle already jumped if another outbreak occurred. It would be one less situation that the government would have to come up with a remedy.</p> <p>I trust my midwife's judgement, along with hundreds and thousands of others whom trust her as well. The birthing process is a completely natural process that has been occurring for many, many years before hospitals and doctors. Midwives are part of our history! They have always been trusted since women began birthing naturally many years ago. Why would we not trust their judgement now? I can not explain enough why Midwives are so important to our families! When hospitals and doctors speak, we listen to their concerns, give them our support and the same needs to be done for our Midwives. Our Midwives need our support, lets support them to the fullest! Now is the time!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p>		

Some examples of the updates that need to be made-

My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.

My Midwife should be allowed to start an IV in an emergency.

Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.

Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please!

Thank you for your time!

NAME	SECTION	DEPARTMENT RESPONSE
96. Larry Jones	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a father of three who has had one hospital experience and two homebirth experiences. My hospital experience was horrible compared to the two homebirth experiences. It was like night and day. They were two completely different experiences. My experience with life is that once you are exposed to something you can not take it back. I never once felt nervous at home verses the hospital where I did not even know the doctors name. The women that are representing South Carolina are well trained and have more qualifications than one single RN representing that hospital. The midwives are prepared for everything birth. I would highly recommend homebirths as a father that witnessed three births.</p> <p>I trust and support my midwife's judgement as their actions have always been successful!</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please!</p> <p>Thank you for your time!</p>		

NAME	SECTION	DEPARTMENT RESPONSE
97. Yelena Picora	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>

To whom it may concern,

I am a NC resident that had two healthy sons born in SC under the professional and exceptional care of my SC licensed midwife, Lori H. Gibson. My sons are now almost 7 and 2 years old. When I was a first time pregnant mama, hospitals in my areas were not "baby friendly" and did not provide the care that I knew would be best for me and my son on the way. While pregnant moms research so much and choose the best products for their baby on the way, I was also researching birth hormones, water births, kangaroo care, delayed cord clamping etc. This made me seek out my SC midwife and not be limited to hospital protocols that at the time denied me of options I was researching. I am glad to see that Novant hospital, in the past 7 years is looking at data and seeking to become a "baby friendly" hospital more each year. My midwife had been a wealth of knowledge and support who oversaw my prenatal, labor/birth and postpartum care in the uttermost professional matter and my husband and I are thankful for the option that SC provided for us that we have been stripped away from in NC where we currently reside. It is wrong on so many levels and takes away my rights as a woman to choose to birth in a way that is best for me and insures the best support and care that results in less complications. Please do not limit the rights of my midwife so that I and future woman after me can have the beautiful experiences of birth under the personalized and exceptional care that midwives in your state provide.

I completely trust my midwife's judgement to provide me with the medical care that is needed within her scope during every part of the way. I trust her to know and make the decision when medical care and intervention within a hospital is required. As a mama who had low risks pregnancies, I know I made the best decision for my family to birth under the care of a midwife outside of the hospital. Although, I completely respect and am thankful for doctors and nurses and the care they provide...this option is not best for everyone. Birthing children is not an emergency that needs to happen within hospital walls. It is a natural occurrence that often plays out better with less complications if the mama feels completely relaxed and safe in the care one ONE main provider that had overseen every single tiny step of her pregnancy, knows her like a friend and supports her in a way that hospitals, due to their large base of patients and protocols, just can not. I fully credit the fact that I did not have any PPSD like so many of my friends to the birth experience I was able to have under my midwife care compared to some of their birth experiences within hospital walls of my friends.

South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs. My midwife is my healthcare provider of choice for my prenatal, delivery and postpartum care and should have full rights to practice and provide the full medical care that they are capable of. Please look at statistics and listen to hundreds of women that were under the professional care of SC Licensed Midwives.

My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife. There is

no size fits all when it comes to medical care and when I choose to place myself under the care of a midwife, I trust her with all my medical needs for that pregnancy and only she, who has walked with me every step of the journey, unlike any doctor could, should have full authority to decide the best medical care that is needed for me.

Some examples of the updates that need to be made-

My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.

My Midwife should be allowed to start an IV in an emergency. If a need of an IV arises, why on earth would anyone limit my midwife of something that she is capable of doing and I, as her patient would require.

Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.

Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.

Thank you for your time.

Sincerely beg you to not ignore our pleas,

NAME	SECTION	DEPARTMENT RESPONSE
98. Wendy Jean Bramble	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I'm the mother of a Certified Professional Midwife (CPM) in South Carolina, a state in which I have long-time ancestral roots and close family ties. My great grandfather served as a respected lawyer and judge in Columbia, and my daughter and three of my grandchildren, two of whom are child-bearing age, call the state home. I've seen my daughter's love and concern for her patients, and their love for her. Her patients' best best possible care is always her utmost concern.</p> <p>It's clear from hearing her experiences over a couple a decades that South Carolina Licensed Midwives and their patients would be best served if CPMs could practice in South Carolina to a level that matches national CPM standards. Patients should be able to make choices for care based on informed consent and refusal and discussions between them, their midwife, and other healthcare professionals as needed, without over-supervision by the state.</p> <p>Some important updates that should be made through revision in the laws governing South Carolina CPMs include:</p> <ul style="list-style-type: none"> <li>- The right to suture, potentially saving patients unnecessary trips to the hospital;</li> <li>- The right to start an IV in an emergency; and</li> <li>- The right to utilize tele-visits by the midwives and their consulting practitioners. This is being perfected during the current pandemic.</li> </ul> <p>Please listen to the state's midwives concerning whatever changes they feel need to be made to Regulation 61-24. These dedicated professionals know the nuances of the midwifery practice. I cannot imagine the state has more concern and knowledge about the best way to treat homebirth and birth center patients than they do.</p> <p>Thank you for your consideration.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
99. Danielle Deneau	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a wife and mother of a little girl.</p> <p>I trust my midwife's judgement. She was there from the beginning and guided me and my husband through all our questions and concerns. She knew what to do during critical moments, and I am truly thankful for her skills and experiences.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
100. Jenny Keasling	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a mother of two. I've had a midwife for each of my pregnancies. One was a home birth and one at a birth center. I choose midwives for each of my pregnancies because I do not feel comfortable giving birth in a hospital setting. This is why midwives are so important to me and to mothers everywhere.</p> <p>I trust my midwife's judgement.</p> <p>South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made are as follows:</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for taking the time to hear my comments.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
101. Lindsay Millwood, Certified Birth Doula	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a birth doula, student midwife and mother of 4 the last of which was born at home.</p> <p>I trust my midwife's judgement to provide full scope of practice. South Carolina Licensed Midwives study and apprentice for years and are capable of more than the current guidelines allow. South Carolina Licensed Midwives need to be able to practice to a level that matches national standards for CPMs.</p> <p>My care should be decided based on informed consent and refusal and discussions between myself and my Midwife, and my other healthcare professionals, without over-supervision of my Midwife.</p> <p>Some examples of the updates that need to be made-</p> <p>My Midwife should be allowed to suture, potentially saving me an unnecessary trip to the hospital.</p> <p>My Midwife should be allowed to start an IV in an emergency.</p> <p>Myself and my Midwife and her consulting practitioner should have the ability to utilize tele-visits that are being perfected during the current pandemic.</p> <p>Please listen to our state midwives concerning the updates that need to be made to Regulation 61-24. I do not yet understand all the nuances of midwifery practice, and neither can you. But there are many wise midwives in South Carolina who do. Refer to their judgement, please.</p> <p>Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
102. Jami Morris, President, Palmetto Association of Licensed Midwives	General	<b>Partially Adopted.</b> 1200.B. One of the medications is not FDA approved for the described use; Situations requiring one of the medications would be considered emergency situation

**Medication	Indication	Dose	Route of Administration	Duration of Treatment
Oxygen	Maternal/fetal distress	6-10L/min	Mask	Until stabilization is achieved or delivery
	Neonatal Resuscitation	10 L/min	Bag and mask	Up to 20 minutes or until transfer to hospital is complete
0.5% erythromycin ophthalmic ointment	Prophylaxis of neonatal ophthalmia	1 cm ribbon in each eye	topical	1 dose
Vitamin K1 1mg/ml	Prophylaxis of hemorrhagic disease	1.0 mg/1ml	intramuscularly	1 dose
Oxytocin (Pitocin) 10 units/ml	Postpartum hemorrhage only	10 units/1ml	intramuscularly	1-2 doses
Methergine 0.2mg/ml or 0.2mg tablets	Postpartum hemorrhage only	0.2 mg	Intramuscularly or orally	Q6hours, may repeat x3
Misoprostol 200mcg	Postpartum hemorrhage only	800 mcg	Rectally or orally	1-2 doses
Lidocaine HCl 2%	Local anesthetic for repair of lacerations	Maximum 50 ml	Percutaneous infiltration	Completion of repair
Penicillin G	Group B Strep prophylaxis	5M unit initial dose, 2.5M dose q4 hours	IV in 100ml LR or NS	Birth of baby
Lactated Ringers Solution	Maternal stabilization	1-2 liters	Intravenous	Until stabilization is achieved
Epinephrine HCl 1:1000	Treatment of severe allergic reactions	0.3ml pre-measured dose	Subcutaneously or intramuscularly	Every 20 minutes or until EMS arrives
Rho (D) Immune Globulin	Prevention of Rh sensitization in Rh negative women who are antibody negative	300mcg	Intramuscularly	Single dose for: spontaneous bleeding during pregnancy, prophylaxis at 28 weeks gestation, and within 72 hours of delivery of Rh positive infant

\*\* Each medication may be updated to comply in accordance with the current CDC guidelines

NAME	SECTION	DEPARTMENT RESPONSE
103. Jami Morris, President, Palmetto Association of Licensed Midwives	General	<b>Not Adopted.</b> This comment does not pertain to the text of the regulation but rather to the Department's process.
<p>Good afternoon,</p> <p>In addition to the documents I emailed on March 29, 2020, PALM members would like to add the following recommendation.</p> <p>DHEC Health Quality utilize and involve the Midwifery Advisory Council at each and every meeting regarding discussions or decisions relevant to any matter involving Regulation 61-24. This would include input generated from any and all medical or consumer stakeholders.</p> <p>Thank you for the opportunity to provide comment.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
104. Henry Street	General	<p><b>Partially Adopted.</b>  Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Informed Consent has been added, Section 1000; National Standards - Partially Adopted, Midwives are required to meet NARM requirements and be certified by NARM and practice within the scope of practice; Televisits - Adopted, Nothing in this regulation prevents televisits.</p>
<p>To whom it may concern,</p> <p>I am a parent in Berkeley County. My wife and I had a home birth in 2017, and I couldn't imagine being in the hands of anyone better. I trust my midwife's judgement, training and expertise, and I want her and other South Carolina Licensed Midwives to be able to practice to a level that matches national standards for CPMs.</p> <p>Our labor and deliver care should be decided based on informed consent and refusal and discussions between my family and our midwife, and my other healthcare professionals, without over-supervision of our midwife.</p> <p>During my wife's labor and birth of our son, our midwife skillfully handled tough situations. I am glad we did not have any complications that necessitated a visit to an emergency room, especially because I've heard of the potential for nightmare scenarios. In addition to giving midwives clear access to hospital admissions, midwives should be allowed to suture, they should be allowed to start an IV, and they most certainly should be allowed to make prenatal visits over the phone -- especially during the on-going crisis.</p> <p>We have to get this right now. In the coming months, more and more women will turn to home births during this coronavirus pandemic. Here's a story about that from The Wall Street Journal:  <a href="https://www.wsj.com/articles/coronavirus-is-forcing-pregnant-women-to-make-tough-choices-11585560601">https://www.wsj.com/articles/coronavirus-is-forcing-pregnant-women-to-make-tough-choices-11585560601</a> Midwives are trained professionals who offer excellent care with low risk. It's time they are treated like the medical professionals they are. Here in Berkeley County, we are the home of Maude Callen, one of South Carolina's most famous midwives. Let's make her proud.  Thank you for your time.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
105. Isiah Glenn	General	<b>Not Adopted.</b> This is beyond the scope of this regulation.
<p>Hello,</p> <p>Earlier in the year, a petition was started regarding Licensed Midwives. The petition asked that DHEC create regulations that integrate Midwives into the Perinatal System of Care for streamlined access during emergencies. It is Imperative, that Licensed Midwives maintain their autonomy while still being given expedited access to higher levels of care when more resources become necessary. Over 4,600 of our consumers signed and believe it is necessary to make you aware of their desires. I've attached two files to this email. Please consider every signature and personalized statement as part of the public open comments for regulation 61-24.</p> <p>The petition read:</p> <p>"The South Carolina state legislature must protect pregnant women, mothers and newborn babies by passing the Equal Access to Hospital Doors Bill H-4966, officially called the Perinatal Integration Act of 2020. A similar bill in the senate is also pending. The South Carolina Department of Health and Environmental Control also must not pass retaliatory regulations to further restrict midwives.</p> <p>"In 2014, the South Carolina Department of Health and Environmental Control (DHEC) wrote a regulation that specifically omitted patients of midwives and specifically outborn babies (babies who are not born in a hospital) from being able to automatically transfer care to a higher resource facility in an emergency. The regulation painstakingly lists every perinatal care facility type in the state, including prison infirmaries, except for Licensed Midwives and birth centers. Therefore, in an emergency, midwife and birth center patients may be refused smooth transfers into higher resource facilities in an emergency, which could create life or death situations for mother and/or baby. Instead, these patients are sometimes referred to an emergency room and lose precious time while waiting for their turn and for the slower process of admittance to take place.</p> <p>"It is unlikely this is a simple oversight because there is an easy fix. All DHEC must do is agree to add in "licensed midwives and outborn babies" to the language, and all of these mothers and babies would suddenly be protected as well. DHEC has refused. Two years ago, the Palmetto Association of Licensed Midwives and the Midwifery Advisory Committee (whose job it is to advise DHEC) approached DHEC and also wrote a statement in favor of the change. Instead, DHEC went to the OB task force, which also agreed with MAC, yet DHEC continued to do nothing to change this except to say it was looking for stakeholders and would then talk to the Hospital Association. Two years later, nothing has changed.</p> <p>"DHEC could also offer a quick and temporary solution to the problem by providing a provider-wide exception, position statement or memo. However, DHEC is also unwilling to do this. As recently as January 2020, MAC asked DHEC to provide this temporary solution, but DHEC stated that they have no plans to make such a resolution, according to representatives who were present at that meeting. They stated that the Licensed Midwife regulation is now scheduled for revisions, but they have no current plans to revise regulations 61-16, which is the regulation regarding perinatal levels of care. The midwifery groups have asked DHEC numerous times why they instated and maintained this omission, but no reason has ever been given.</p> <p>"Therefore, in order to protect these mothers and babies who choose the safe and attentive care of licensed midwives in the state of South Carolina, the House of Representatives has introduced the Equal Access to Hospital Doors bill. As of March 1 2020, that bill had 15 co-sponsors already, and a mirrored</p>		

senate bill was pending.

"On February 26 2020, in what appears to be retaliation to the pending legislation, DHEC formally announced that it was opening midwife regulations. The midwives believe this is not to fix the omission because historically DHEC has done this specifically to further limit and restrict midwives' freedoms. The public comment period for the Notice of Drafting for this new Regulation 61-24 runs through Monday, March 30. Public comments regarding this regulation can be submitted via email to [healthregcomm@dhec.sc.gov](mailto:healthregcomm@dhec.sc.gov) or by completing an online public comment form. A stakeholder meeting for the DHEC regulations on Tuesday, March 17, 2020 at 10 a.m. in the DHEC Columbia Mills Building, conference room 2407. A conference line to join the meeting is at 800-753-1965, access code 6671491. Even though they opened the regulations, DHEC would not tell the South Carolina midwives why they want to update them. In the past, DHEC has tried to put in supervisory language, meaning licensed midwives would have to have a supervising physician and agreements with the hospitals.

"Why do I care? I personally had an incredible home birth with a licensed midwife on Feb. 26, 2019 -- exactly one year to the day before DHEC decided to open midwife regulations for potentially more restrictions. It was the most amazing, beautiful, empowering and loving experience of my life, and I strongly believe that anyone should have access to this experience if they so desire and they meet the safety parameters to have a home birth or to work with a licensed midwife. My highly trained and experienced midwife ensured my baby and I were safe at all times. At one point in labor, she was concerned I may not be dilating appropriately due to scar tissue, so she kept careful watch on the situation. Fortunately, right after she discovered the potential problem, I quickly fully dilated and birthed a healthy baby girl just an hour and a half later. However, if my cervix continued to be "stuck" due to scar tissue, I would have had to transfer to the hospital. It would have been crucial for me to have a smooth transition to a higher resource facility and NOT be stuck waiting in an emergency room. My midwife did her job perfectly, but DHEC's prejudice against midwives, birth centers and their patients could have led to a life or death situation, had my body not cooperated that day.

"Please sign this petition to urge DHEC to drop any additional restrictive regulations, fix the omission of midwives in equal access to hospital transfers, and for state legislators to sponsor and sign this bill so that no matter what kind of maternal and perinatal care a woman chooses, ALL mothers and babies are protected, even in an emergency."

Thank you for your time!



NAME	SECTION	DEPARTMENT RESPONSE
106. Kristyn Leonard	General	<p><b>Not Adopted.</b> This is not a comment regarding revision of the regulation text but rather the process.</p>
<p>I would just like to remind you that in 2015 there were proposed changes to the regulations that did not involve heeding recommendations from the MAC and there was a great amount of push back from consumers. I authored an online petition found here: <a href="https://www.change.org/p/keep-midwives-in-south-carolina">https://www.change.org/p/keep-midwives-in-south-carolina</a> which received over 4000 signatures. The comments made and individual signatures are in the attached pdfs.</p> <p>I urge you to not make the same mistake again. There is a MAC for a reason, listen to their suggestions and implement policies and regulations that will protect consumers and providers while still allowing for patient autonomy and informed consent.</p> <p>Text of the petition: The South Carolina Board of Health and Environmental Control (DHEC) is attempting to rewrite the current Licensed Midwife (LM) regulations with inclusions that are not evidence based nor in the best interest of the patient. These include but are not limited to: *Not allowing a LM to attend a birth after 41 weeks gestation. Gestation can vary greatly and putting such an early arbitrary date helps no one. *Not allowing a LM to attend a VBAC (vaginal birth after cesarean). This one really makes me angry as a c-section mama. Midwives scope of practice includes the care of low risk pregnancies and attendance of low risk births. DHEC is essentially saying that THEY know better than ME or my DOCTOR if I am low risk or not. That is not their call to make. They don't know me or my history, a history of cesarean alone does not make me high risk. Informed consent is critical, but I have the right to choose what risks I am comfortable taking. *Not allowing a LM to administer antihemorrhagics until AFTER a very heavy blood loss. Again, this is DHEC saying they know better than the midwife in the situation what is best for the patient. This is simply not true.</p> <p>Here is what I can gather about the DHEC board using their own website: Allen Amsler, Chairman; CEO of a construction company Mark S. Lutz, Vice Chairman; administrator at an OBGYN office, holds an MBA in Organizational Development Ann B. Kirol, DDS, Secretary; Dentist R. Kenyon Wells; owns a medical supply company Charles M. Joye, II, P.E.; CEO of an engineering firm L. Clarence Batts, Jr; chemical engineer John O. Hutto, Sr, MD; cardiologist William Lee Hewitt, III; owns a real estate firm</p> <p>While I have no doubt these are good people who together can solve many issues, birth is not one of them. Not one of these board members are equipped with any sort of formal training on childbirth, especially not out of hospital birth. And on top of that they have NO RIGHT to make medical decisions for me or anyone else for that matter. Period.</p> <p>DHEC continues to put politics above people and it has got to stop. It is those who bear children who are the consumers of birth services; whether they be at a hospital, at a birth center, or in our own homes is OUR decision to make. No one else's. The women, and men, who actually work with home birth and birth</p>		

center patients are the ones who know the nuances of out of hospital birth best. We, the undersigned, assert that the Midwifery Advisory Council are the ones who should be writing the regulations.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
107. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	General	<b>Adopted.</b> 101.B
<p>Recommended Addition: “Medical Provider: A physician, physician’s assistant, nurse practitioner, certified nurse midwife, advanced practice nurse for referral and/or consultation of client and neonatal conditions in the antepartum, intrapartum, postpartum and neonatal period whenever there are significant deviations from the normal.”</p> <p>Rationale: The listed provider types by the “Recommended Addition/Change: Healthcare Provider” are all Healthcare providers. The listed provider types by “Medical Provider” are providers who work in the medical field with prescriptive authority.</p> <p>Recommended Addition: “Client: Consumer of midwifery services who has hired a licensed midwife for the purposes of prenatal visits, planning a community (home or birth center) birth and postpartum visits.”</p> <p>Recommended Addition: “Community Birth: Planned home birth or birth center birth with Licensed Midwife.”</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
108. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	A.2.i	<b>Adopted.</b> 101.B
<p>A.2.i. (Definitions) Health Care Provider: A physician or nurse practitioner  Recommended Addition/Change: “Healthcare Provider: Licensed midwife, chiropractor, physician, physician’s assistant, certified nurse midwife, nurse practitioner, advanced practice nurse”</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
109. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	A.2.q	<b>Adopted.</b> 1300.A
<p>A.2.q. (Definitions) Physician: A person who is licensed to practice medicine in the State of South Carolina.  Recommended change: “A person who is licensed to practice medicine in his/her state. “  Rationale: Many midwives live near the state borders and may have consulting relationships with physicians whose primary practice site is in another state. Patients may live close to the state border or move from another state where they had received prenatal care prior to coming to South Carolina for prenatal care and birth and have primary physicians in their home state. Sometimes the closest physician or hospital to a mother is in a neighboring state. Some examples: clients living in or near Charlotte, NC or Augusta, GA.</p>		

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
110. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	A.2.q	<b>Adopted.</b> 1300.A
<p>“Physician. A person who is licensed to practice medicine in the State of South Carolina.”  Families move or travel to SC to birth during pregnancy and therefore should not be limited to seeing a SC licensed physician. Patient autonomy and insurance primary care physician status is being denied by requiring a mother to see only SC licensed providers. DHEC does not regulate physicians so there is no rationale for limiting a patient’s care to SC providers. Even state Medicaid plans cover providers in other states depending upon their proximity to the state border. This requirement is burdensome for the families and limits access to quality care.</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
111. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	B.3	<b>Adopted.</b> <b>102.C.3</b>
<p>Effective Date and Term of License. A license for a midwife shall be effective for a 24-month period following the date of issue. An apprentice midwife license shall be effective for a one year period following the date of issue.</p> <p>Recommended Change: “36 month period following date of issue”</p> <p>Rationale: CPM or other credentialing agency is 36 months. This decreases paperwork and processing.</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
112. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	B.4	<b>Adopted.</b> <b>102.F</b>
<p>Fees. The license fee for each midwife license is one hundred fifty dollars (\$150) per 24-month licensing period</p> <p>Recommended change: “fee of \$225.00 for 36 month license”</p> <p>Rationale: Fee would be in accordance with the 36 month re-licensing period.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
113. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	B.6	<b>Not Adopted.</b> This isn't within the scope of the regulation. The Department will consider this as Standard Operating Procedures.
<p>Inspections. Recommended change: "Inspection will consist of an opening meeting prior to the inspection during which the scope of the inspection will be explained and any questions resolved. The inspection will be followed by a closing meeting during which potential non-compliances will be discussed prior to issuing the final inspection report."</p> <p>Rationale: This approach will eliminate unnecessary paperwork by giving both parties an opportunity to share information and resolve potential misunderstandings before the final report is issued. Having an opening and closing meeting is the approach used by many accreditation bodies, including the Occupational Safety and Health Administration (OSHA), the American National Standards Institute (ANSI), and internally by private companies both in the US and internationally.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
114. Lori Gibson, CPM, LM, MBC- Chair of Midwifery Advisory Council  on behalf of MAC	B.6	<b>Partially Adopted.</b> PALM's recommendations were considered in the development of the regulation. Department Standard Operation Procedures are not within the scope of this regulation.
<p>As the Midwifery Advisory Council (MAC), we have collectively agreed upon and endorse the proposed revisions submitted by the state licensed midwives' association, Palmetto Association of Licensed Midwives (PALM) in regards to SCDHEC Regulation 61-24 Licensing Midwives with the following suggestions:</p> <p>Rationale: "Having an opening and closing meeting is the approach used by many accreditation bodies, including the Occupational Safety and Health Administration (OSHA), the American National Standards Institute (ANSI), and internally by private companies both in the US and internationally. " Edit to say: "Having an opening and closing meeting is the approach used by other regulating and accrediting agencies..."</p>		

NAME	SECTION	DEPARTMENT RESPONSE
115. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	B.7	<b>Adopted.</b> 202.C
<p>Noncompliance.</p> <p>Recommended change: add specifics about the procedures followed when a potential noncompliance is identified. For example: “When a potential noncompliance with the licensing standard is identified, the Department will take the following steps:</p> <ul style="list-style-type: none"> <li>• The Department will notify the licensee in writing that a potential nonconformance exists and will request any necessary information</li> <li>• The Department will prepare a preliminary report and review it with the licensee during the closing meeting</li> <li>• The licensee will have an opportunity to respond to the preliminary report during the closing meeting</li> <li>• After the closing meeting, the Department will prepare a final report which will include any remaining noncompliances, and if applicable, require the licensee to provide a corrective action plan.”</li> </ul> <p>Rationale: This approach will eliminate unnecessary paperwork by giving both parties an opportunity to share information and resolve potential misunderstandings before the final report is issued. Having an opening and closing meeting is the approach used by many accreditation bodies, including the Occupational Safety and Health Administration (OSHA), the American National Standards Institute (ANSI), and internally by private companies both in the US and internationally.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
116. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.3.a	<b>Adopted.</b> 102.E
<p>Examination</p> <p>Recommended Change:</p> <p>Proof of successful examination by a national accreditation organization which sets requirements for Community Birth experience will be submitted to the Department.</p> <p>Rationale: Outdated as there is no longer a state examination</p>		

NAME	SECTION	DEPARTMENT RESPONSE
117. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.3.b	<b>Adopted.</b> 102.E
<p>Applicants for licensure as a midwife who lack apprenticeship in South Carolina but who have equivalent experience from another jurisdiction may apply for a midwife license and sit for the qualifying examination after submitting evidence of experience and of all other requirements to the Department. Action will be taken on each request on an individual basis.</p> <p>Recommended change: “Applicants for licensure as a midwife who lack apprenticeship in South Carolina but who have equivalent experience from another jurisdiction may apply for a midwife license after submitting evidence of experience, a professional letter of recommendation, as well as all other requirements to the Department. Action will be taken on each request on an individual basis.”</p> <p>Rationale: this clause should be removed for the same reason as C.3.a. above – there is no longer a state exam, just proof of passing the national exam.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
118. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.5	<b>Not Adopted.</b> Not consistent with other regulations.
<p>Renewal of Midwife License.</p> <p>Recommended change: Licenses must be renewed every 36 months, or at the renewal date of the national certification. The renewal date will be the birthdate of the licensed midwife. An applicant for renewal of a midwife license must submit at least 30 days prior to the expiration of his/her license...</p>		
NAME	SECTION	DEPARTMENT RESPONSE
119. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.5.c	<b>Adopted.</b> 102.E, 102.H, 500
<p>Recommended Change: For those Licensed Midwives who are not CPMs: A total of 30 CEUs are required in each 3 year recertification period. 5 CEUs must be in a Peer Review workshop or 5 hours of Peer Review participation.</p> <p>Rationale: Licensed Midwives who are Certified Professional Midwives must have proof of 30 continuing education hours and 5 hours of peer review every 3 years. This combines C.5.3 and C.5.e for non-CPM licensed midwives.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
120. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.5.f	<b>Adopted.</b> Section 1700
<p>Evidence of an annual negative skin test for tuberculosis or is noninfectious for the same.</p> <p>Recommended change: “...adherence to CDC current guidelines for tuberculosis screening.”</p> <p>Rationale: The intention is to reflect the current CDC guidelines.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
121. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.5.g	<b>Adopted.</b> 102.E, 102.H
<p>(2) Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR) certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program (NRP) certificate in accordance with current NARM or other Department approved organization standards; Recommended change: “...(NRP) certificate or other American Academy of Pediatric neonatal resuscitation certification...”</p> <p>Rationale: Current NRP guidelines include skills that Community Midwives will not/ cannot use or implement. For example, there is another American Academy of Pediatrics program “Helping Babies Breathe” that is specifically designed for resource limited environments. <a href="https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/helping-babies-survive/Pages/Helping-Babies-Breathe.aspx">https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/helping-babies-survive/Pages/Helping-Babies-Breathe.aspx</a></p>		
NAME	SECTION	DEPARTMENT RESPONSE
122. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.6	<b>Adopted.</b> Section 1700
<p>Tuberculin Skin Test Requirements. Change to: Refer and Adhere to current CDC guidelines Rationale: The above changes reflect current CDC guidelines (2019).</p>		
NAME	SECTION	DEPARTMENT RESPONSE
123. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	C.7	Adopted. 102.G
<p>(Delinquency Period) should be moved under C.5 to be included under “license renewal”</p> <p>Recommended change: “C.5.h. Delinquency Period. Delinquency in renewal of license of 30 days after the license expiration date shall result in a fee of \$25 in addition to the licensure fees noted in Section B.4.”</p> <p>Rationale: This clause is related to license renewal and should be arranged under the appropriate section for clarity.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
124. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F-N	<b>Adopted.</b> Sections 400, 900, 1200, 1300, 1400
<p>PRENATAL CARE through N. PROHIBITIONS IN THE PRACTICE OF MIDWIFERY  Recommended changes: These sections should be listed under a new section.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
125. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.1	<b>Adopted.</b> There is an informed consent section in 1000, and nothing would prevent the Midwife from providing this additional information.
<p>Informed Consent. The Licensed Midwife shall inform the client orally and in writing of all of the following:</p> <ul style="list-style-type: none"> <li>• The midwife’s training and experience</li> <li>• Whether the midwife has malpractice insurance</li> <li>• Requirements of SCDHEC regulations</li> <li>• Procedures for emergency transport</li> <li>• Protocols and disclosure of risks associated with vaginal birth after cesarean section, if applicable</li> <li>• Explanation of the midwife’s training and equipment for emergency treatment, and what is only available in a hospital setting</li> <li>• HIPAA requirements</li> </ul>		
NAME	SECTION	DEPARTMENT RESPONSE
126. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.2	<b>Adopted.</b> There is nothing preventing a midwife from using a televisits. Documentation of risk is done by the physician twice in Section 1100.
<p>Risk Assessment. The Licensed Midwife will assess risk status criteria for acceptance and continuation of midwifery care. Documentation of low risk status should occur at the initial visit, each trimester, and at the start of labor. If the client displays substantial risk factors, the midwife should consult with or refer to a medical provider. Clients should visit a medical provider twice during her pregnancy, one of the visits must be at or after 34 weeks of pregnancy. The option for a limited number of telemed visits may be offered at the provider’s discretion.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
127. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.3	<b>Partially Adopted.</b> Section 900
<p>Prenatal Care. The midwife provides care, support and information to the client throughout pregnancy and determines the need for consultation, referral or transfer of care as appropriate. This care includes:</p> <ul style="list-style-type: none"> <li>a) Prenatal visits and testing in accordance with current midwifery standards to include Antibody screen, ABO blood typing, Rh factor, CBC w/ differential, Hepatitis B surface antigen, Syphilis screen, and Rubella. Licensed Midwives will advise clients per the most current version of SC DHEC "Required and Recommended Prenatal Screening for HIV and STDs."</li> <li>b) Education and counseling: nutrition and exercise, birth preparation, breastfeeding education</li> <li>c) Evaluation of maternal nutrition, blood pressure, fetal heart tones, fetal growth, position and presentation of the baby</li> <li>d) Screening for signs and symptoms of complications</li> <li>e) Ultrasound imaging</li> </ul>		
NAME	SECTION	DEPARTMENT RESPONSE
128. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	F.3	<b>Adopted.</b> 901.B
<p>Home Visit. At least one prenatal visit shall be made to each woman's home during the last six weeks of pregnancy This needs to specify that it is for planned home deliveries only and state the purpose of this meeting.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
129. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.4	<b>Partially Adopted.</b> Section 1300
<p>Prenatal Conditions Requiring Consultation or Referral. The midwife shall consult with, or refer to, a licensed medical provider if the following occur:</p> <ul style="list-style-type: none"> <li>a) Pregnancy-induced hypertension, as evidenced by a blood pressure greater than or equal to 140/90 on 2 occasions greater than 6 hours apart</li> <li>b) Persistent severe headaches, epigastric pain or visual disturbances</li> <li>c) Persistent symptoms of urinary tract infection</li> <li>d) Significant vaginal bleeding before the onset of labor not associated with uncomplicated spontaneous abortion</li> <li>e) Rupture of membranes prior to 37.0 weeks gestation</li> <li>f) Noted abnormal decrease in or cessation of fetal movement</li> <li>g) Anemia resistant to supplemental therapy</li> <li>h) Fever of 102°F or greater for more than 24 hours</li> <li>i) Non-vertex presentation after 38 weeks gestation</li> <li>j) Hyperemesis or significant dehydration</li> <li>k) Isoimmunization, Rh negative sensitization, or any other positive antibody titer which may have</li> </ul>		

detrimental effect on mother or fetus

- l) Elevated blood glucose levels unresponsive to dietary management
- m) Positive HIV antibody test
- n) Primary genital herpes infection in pregnancy
- o) Symptoms of malnutrition, anorexia, protracted weight loss or failure to gain weight
- p) Suspected deep vein thrombosis
- q) Documented placental anomaly or previa at term
- r) Documented low-lying placenta in woman with history of previous cesarean delivery
- s) Labor prior to 37.0 weeks gestation
- t) History of prior uterine incision
- u) Multiple gestation
- v) Known fetal anomalies that may be affected by the site of birth
- w) Marked abnormal fetal heart tones
- x) Abnormal non-stress test or abnormal biophysical profile
- y) Confirmed poly- or oligo- hydramnios
- z) Gestation beyond 42.0 weeks by reliable confirmed dates
- aa) Documented IUGR, LGA or SGA

NAME	SECTION	DEPARTMENT RESPONSE
130. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.5	<b>Partially Adopted.</b> Section 900

Intrapartum Care. The midwife will provide care, support and information to the client throughout labor and birth. The midwife will monitor, assess and record the status of labor and evaluate maternal and fetal condition throughout the labor and birth process. Assessment and documentation during the intrapartum period should be consistent with national midwifery guidelines for practice. The duties of the midwife include:

- a) Assessing and documenting the progress of labor;
- b) Monitoring client and fetal well-being including client vital signs and fetal heart tones;
- c) Assessing the birth environment and emotional responses to labor and birth;
- d) Delivery of the baby and placenta;
- e) Recognizing complications and initiating appropriate action, including referral or consultation as indicated;

NAME	SECTION	DEPARTMENT RESPONSE
131. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.6	<b>Partially Adopted.</b> Section 1300

Intrapartum Conditions Requiring Consultation or Referral. The midwife should consult with or refer to a medical provider should the following occur:

- a) Prolonged premature rupture of membranes: more than 24 hours prior to the onset of labor;
- b) Non-vertex presentation;
- c) Evidence of fetal distress;
- d) Abnormal heart tones;
- e) Moderate or severe meconium staining;
- f) Persistent blood pressure greater than 140/90;
- g) Significant proteinuria or ketonuria;
- h) Failure to progress:
  - a. No progress for greater than 5 hours in active first stage following 6 cm dilatation;
  - b. More than 2 hours without descent in second stage;

i) Abnormal bleeding; j) Prolapsed umbilical cord; k) Signs of active infection;		
NAME	SECTION	DEPARTMENT RESPONSE
132. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.7	<b>Partially Adopted.</b> Section 900
<p>Immediate Postpartum Care. The midwife shall remain with the client and infant for at least 2 hours postpartum or until both the client's and infant's conditions are stable, whichever is longer. The midwife will accomplish the following tasks during the immediate postpartum period:</p> <ul style="list-style-type: none"> <li>a) Access the newborn's condition at one minute and five minutes after birth according to Apgar scoring and record the results;</li> <li>b) Provide warmth and stimulation to the newborn as indicated;</li> <li>c) Thoroughly examine the newborn including weight, vital signs, and estimation of gestational age;</li> <li>d) Assist with breastfeeding and facilitate bonding;</li> <li>e) Examine the placenta, cord and membranes;</li> <li>f) Evaluate the perineum and repair any first or second degree lacerations;</li> <li>g) Monitor postpartum bleeding and condition of the fundus and treat for hemorrhage. Active 3rd stage management may be initiated as appropriate;</li> <li>h) Obtain a cord blood sample for Rh factor testing if mother is Rh negative;</li> <li>i) Instill prophylactic eye medication in each eye of the newborn unless written refusal is obtained from the client;</li> <li>j) Administer prophylactic vitamin K to the newborn, with informed consent from the client;</li> <li>k) Confirm client and newborn stability prior to leaving the home or discharging the family;</li> <li>l) Provide verbal and written instructions for self-care and care of the infant, including reasons to consult with the midwife or other healthcare provider.</li> </ul>		

NAME	SECTION	DEPARTMENT RESPONSE
133. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.8	<b>Partially Adopted.</b> Section 900
<p>Continued Postpartum and Newborn Care. Following a community birth, the midwife will continue to follow the client and infant for approximately 6 weeks postpartum, unless care is assumed by another health care provider. Continued care during this period should include:</p> <p>a) Initial Postpartum visit to be scheduled by 36 hours to include the newborn pulse oximetry screening for critical congenital heart defects;</p> <p>b) Postpartum follow up after 24 hours but within 7 days of the birth to include newborn metabolic screening in accordance with standard of care. If the newborn metabolic screening sample is not obtained by the licensed midwife, a referral must be made to an appropriate community agency for the sample to be obtained;</p> <p>c) Administration of Anti -D immune globulin within 72 hours of delivery if patient is Rh negative and infant is Rh positive with the informed consent of client.</p> <p>d) Electronic filing of birth certificate within 7 days of birth.</p> <p>e) Recommendation for newborn hearing screening;</p> <p>f) Following a transport to a hospital setting, the above noted postpartum care may be completed in accordance with the client's wishes.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
134. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.9	<b>Partially Adopted.</b> Section 1300
<p>Postpartum Conditions Requiring Consultation or Referral. The midwife will consult with, or refer to, a medical provider if the client develops the following conditions:</p> <p>a) third or fourth degree lacerations;</p> <p>b) retained placenta or fragments greater than one hour;</p> <p>c) postpartum hemorrhage greater than 1000 ml and bleeding is not controlled;</p> <p>d) signs of uterine infection (foul-smelling lochia, fever, uterine tenderness);</p> <p>e) severe postpartum depression or postpartum psychosis.</p> <p>Rationale: F.9.c ACOG position statement dated December 2019 regarding definition of hemorrhage.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
135. Lori Gibson, CPM, LM, MBC- Chair of Midwifery Advisory Council  on behalf of MAC	F.10-13	<b>Partially Adopted.</b> PALM Recommendations - Partially Adopted. PALM's recommendations were considered in the development of the regulation. Training - Section 500.B
<p>As the Midwifery Advisory Council (MAC), we have collectively agreed upon and endorse the proposed revisions submitted by the state licensed midwives' association, Palmetto Association of Licensed Midwives (PALM) in regards to SCDHEC Regulation 61-24 Licensing Midwives with the following suggestions:</p> <p>Add to existing verbiage- "Midwives having not taken the national accreditation exam within the last 3 years or those who lack the ICNM recognized Midwifery Bridge Certification must attend a MEAC or ACNM approved course and successfully complete that course or take an equivalent course with an certification on I.V. administration and suturing first and second degree lacerations. Evidence of successful course completion must be submitted to the department prior to a midwife practicing the aforementioned skills."</p>		
NAME	SECTION	DEPARTMENT RESPONSE
136. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.10	<b>Partially Adopted.</b> Section 1300
<p>Newborn Conditions Requiring Consultation or Referral. The midwife will consult with, or refer to, a medical provider if the newborn develops the following conditions:</p> <ul style="list-style-type: none"> <li>a) Apgar score less than 7 at 5 minutes;</li> <li>b) Signs of respiratory distress;</li> <li>c) Weight less than 2500 grams;</li> <li>d) Major congenital anomaly;</li> <li>e) Develops an unusual degree of jaundice at any time;</li> <li>f) Signs of hypoglycemia or hypothermia;</li> <li>g) Does not urinate or pass meconium;</li> <li>h) Cardiac irregularities</li> <li>i) Appears abnormal in any other aspect</li> </ul>		

NAME	SECTION	DEPARTMENT RESPONSE
137. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.11	<b>Partially Adopted.</b> One of the medications is not FDA approved for the described use; Situations requiring one of the medications would be considered emergency situation.
<p>Prescription Drugs, Devices, and Procedures prescribed by a medical provider which a licensed midwife may administer including:</p> <ul style="list-style-type: none"> <li>a) Oxygen;</li> <li>b) Eye prophylactic medication;</li> <li>c) Antihemorrhagic agents;</li> <li>d) Vitamin K for the prophylaxis of hemorrhagic disease of the newborn;</li> <li>e) Anti-D immune globulin for the prevention of Rh sensitization in Rh negative patient;</li> <li>f) Intravenous fluids for maternal stabilization;</li> <li>g) Lidocaine HCL;</li> <li>h) Intravenous antibiotics for the prophylactic treatment of GBS. Epinephrine for anaphylactic reaction</li> <li>i) Administration of drugs and procedures as identified in the attached drug formulary (Appendix III).</li> <li>j) In addition to the drugs, devices and procedures that are indicated in a-i, a licensed midwife may administer other prescription drugs, use any other device or perform any other procedure as an authorized agent of a medical provider.</li> </ul>		
NAME	SECTION	DEPARTMENT RESPONSE
138. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.12	<b>Partially Adopted.</b> Suturing - Adopted, 400.C.1; Starting an IV - Adopted, 400.C.2; Catheters - Not Adopted, it is not within the scope of practice due to the fact that it is a medical procedure with risk for infection. Episiotomy - Adopted, 400.C.3. Venipuncture/Capillary Blood Sampling - Not Adopted, This is not within the scope of this regulation. Referral for Ultrasound - Adopted, There is nothing in this regulation that prevents this.
<p>Additional Permitted Practices. The following practices may be performed by a licensed midwife who has the necessary training and skills:</p> <ul style="list-style-type: none"> <li>a) Intermittent catheterization of the bladder;</li> <li>b) Artificial rupture of membranes in active labor;</li> <li>c) Venipuncture and capillary blood sampling;</li> <li>d) Suturing of first and second degree lacerations;</li> <li>e) Emergency episiotomy;</li> <li>f) Intravenous therapy;</li> <li>g) Referral for Ultrasound</li> </ul>		

NAME	SECTION	DEPARTMENT RESPONSE
139. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	F.13	<b>Adopted.</b> 1200.A, 1200.B
<p>Prohibited Practices. A licensed midwife may not do any of the following:</p> <p>a) Administer prescription pharmacological agents with the intent to induce or augment labor;</p> <p>b) Administer prescription pharmacological agents to provide pain management;</p> <p>c) Perform abortions or circumcisions;</p> <p>d) Use vacuum extractors or forceps;</p> <p>Rationale for F.10-F.13: The SCDHEC midwifery regulations should reflect current national standards for licensed midwives and CPMs. These revisions harmonize the state and national requirements to create regulations which help to ensure safe, effective, and consistent care for mothers and babies in South Carolina. Although this would be an added skill for currently Licensed Midwives, skills training and workshops are offered frequently in these clinical areas in which many licensed midwives have been attending and will attend as offered to be properly trained. These skills are included in the list of skills that certified professional midwife candidates must possess prior to eligibility to sit for the national exam. The following documents were used to create these revisions:</p> <ul style="list-style-type: none"> <li>● MANA Core Competencies for Basic Midwifery Practice</li> <li>● Scope of Practice and Standards of Practice (NACPM)</li> <li>● Wisconsin Administrative Code for Safety and Professional Services (Midwifery SPS 182)</li> <li>● Vermont Administrative Rules for Midwives</li> <li>● Florida Midwifery Regulations</li> <li>● Rules of the Idaho Board of Midwifery</li> <li>● Statutes and Regulations, Certified Direct-Entry Midwives (Alaska)</li> <li>● Center for Disease Control</li> </ul>		
NAME	SECTION	DEPARTMENT RESPONSE
140. Amanda Walton	G.5	<b>Adopted.</b> 400.C.2, 500.B.1.a, 1200.B.8.
<p>To win it may concern,</p> <p>Regarding the drafting of DHEC Regulation 61-24, Licensed Midwives, I would like to suggest that administration in labor of intravenous antibiotics (such as those for Group B Streptococcus) be added to the list of medication approved for use by licensed midwives as detailed in section G.5. Administration of i.v. medication is included in midwifery training and is well within the capability of licensed midwives.</p>		

NAME	SECTION	DEPARTMENT RESPONSE
141. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	H.2	<b>Not Adopted</b>
<p>Subsequent Checkups. Within 24 to 36 hours after delivery, the midwife shall visit the mother and neonate; however, if the midwife is present for the first 20 to 24 hours after delivery, the visit at 24 to 36 hours is not considered mandatory.</p> <p>This needs to state the purpose of the visit and give alternatives. If the purpose is to evaluate the baby but the baby is taken to a pediatrician instead, than the visit would be unnecessary. If the mother or baby are transferred to a higher level facility and are under the care of another provider, than the visit becomes unnecessary. We are guest in these homes and cannot demand access. While most families welcome assistance from their midwife, some families travel or live in another state where the midwife cannot logically follow them to their home. Some families have cultural or religious preferences for the care of their newborn. Wording should state midwife must “offer” or “show evidence of wiliness to provide,” or “arrangements for postpartum follow-up care for mother and neonate.”</p>		
NAME	SECTION	DEPARTMENT RESPONSE
142. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	I.3	<b>Partially adopted.</b> 701.B.1.p, 904.B
<p>Metabolic Screening. All requirements for metabolic screening shall be made clear to parents. The midwife shall notify the county health department in the county where the infant resides within three days of delivery in order for a specimen to be obtained. This is outdated. Again this should be vague because recommendations and requirements may change over time. Suggestion: Consider “The midwife should help the family to make plans for any state metabolic screen requirements.”</p>		
NAME	SECTION	DEPARTMENT RESPONSE
143. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	K.15	<b>Adopted.</b> 1300
<p>Is anemic (Hematocrit under 32; Hemoglobin under 11.5); This is far from acceptable standard pregnancy values and has been forcing moms to take supplements that cause unnatural iron increases. The values are not necessary in regulation and should be omitted.</p>		



NAME	SECTION	DEPARTMENT RESPONSE
144. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	M.2.b, G.5	<b>Adopted.</b> 1200
M.2.b. Pitocin G.5. Rhogam Medications should not be listed by name. As new medications and data become available, listing medication names in regulations will limit the effectiveness of the regulations. Instead, the purpose of the medication should be listed without the name.		
NAME	SECTION	DEPARTMENT RESPONSE
145. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	O.1	<b>Not Adopted.</b> This is not within the scope of this regulation.
(4) Blood group and Rh type; (5) Serological test for syphilis (including dates performed); Midwives need to be permitted to order these labs without the accompanying order of a physician. All state and hospital labs should be required to acknowledge a midwife’s order for those service that she is required to provide. That would also include cord blood samples for the newborn to determine the necessity of anti-D immune globulin.		
NAME	SECTION	DEPARTMENT RESPONSE
146. Jami Morris, President, Palmetto Association of Licensed Midwives; Jennifer Kitchton CPM, LM	P	<b>Not Adopted.</b> This is not a comment regarding revision of the regulation text but rather the process.
Department Responsibilities  Recommendation: add a section “3. Revision of Regulations” which would outline the process for revising regulations. The regulated community should have a means to propose regulatory revisions to the Midwifery Advisory Council (MAC) in accordance with national standards of midw. MAC will review these proposals during their bi-annual meetings and advise DHEC of their recommendations. DHEC will then revise the regulations accordingly.  Rationale: This is the fundamental mechanism for maintaining and improving regulations. This approach is commonly used by accrediting bodies around the world.		

NAME	SECTION	DEPARTMENT RESPONSE
147. Cynthia Glenn, Vice President, Palmetto Association of Licensed Midwives; Committees Chair, SC Chapter National Association of Certified Professional Midwives; Owner, Carolina Birth Center	P.1	<b>Partially Adopted.</b> 1800
<p>“DHEC shall appoint a Midwifery Advisory Council which shall meet at least annually for the purpose of reviewing and advising the Department regarding matters pertaining to the training, practices, and regulation of midwives in South Carolina....”</p> <p>“b. The Council shall establish a committee for peer review to consult with midwives in questions of ethics, competency and performance, and to serve as an appeal committee when disciplinary action has been taken. The committee may recommend denying, suspending, or revoking a license, or may recommend specific educational objectives, apprenticeship or other improvement measures as necessary.”</p> <p>The Department is not allowing MAC to function efficiently. MAC is a highly qualified group of specialist in their field of Community Birth and DHEC should contact them first for advice instead of deferring to any other profession or the OB Task Force. MAC should be reviewing the regulations every five years per 1-23-120 and informing The Department of any deficiencies, not the other way around.</p> <p>I have repeatedly witnessed MAC members request that they be a part of the regulation drafting and have heard them be repeatedly denied by The Department. To date, MAC has not even been told exactly who is drafting the regulation revisions or the exact deficiencies that The Department has identified. In the past, we have seen regulation drafts that were created without the advice of MAC and those proposed regulation had dangerous safety issues. Without the full incorporation of MAC and the ethics subcommittee, it is becoming clear that Licensed Midwives need their own Board of Midwifery. I believe it would be to the benefit and safety of South Carolinians for DHEC to cooperate with SC midwife organizations and move forward to establish this necessary endeavor.</p>		

**ATTACHMENT D**

**SUMMARY OF ADVISORY COUNCIL COMMENTS AND DEPARTMENT RESPONSES**

**R.61-24, *Licensed Midwives***

**Comments received by the Midwifery Advisory Council on July 21, 2020**

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	B. Authorized Healthcare Provider: add Licensed Midwives as extension of medical providers	<b>Not Adopted.</b> These are individuals licensed by LLR and are authorized by statute to provide treatment and services that midwives are not authorized to provide. Section 1200 of this regulation authorizes Midwives to administer certain prescription medications to Clients.
<i>Additional Comment:</i>	Licensed Midwives must be added here for the scenarios when they will be administering prescription medications to Clients that were prescribed by the medical providers. See current definition of FF. and suggested change below.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	H: Consultation: change this to "Meeting"	<b>Partially Adopted.</b> Changed to "Compliance Meeting" for clarity.
<i>Additional Comment:</i>	The definition of Consultation for healthcare professionals is in reference to having a conversation about a Client with another professional for medical advice. By using consultation in reference to having a meeting with DHEC can be confusing, especially since 101.V. is entitled "Medical Consultation"	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	I: Amended License: add space between name, address	<b>Adopted.</b>
<i>Additional Comment:</i>		

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	O: Home Birth: a birth planned out of hospital in the location of a residence	<b>Not Adopted.</b> The Birthing Center Licensure Act defines "Birthing center" as "a facility or other place where human births are planned to occur. This does not include the usual residence of the mother or any facility which is licensed as a hospital." (S.C. 44-89-30). Therefore, a planned delivery at a location other than the mother's usual residence falls within the statutory definition of a "birthing center" and would require a license as such.
<i>Additional Comment:</i>	There are situations when a pregnant person can neither give birth in their own homes nor have the option of using a birth center, in those situations they would be able to give birth in a residence in SC. Defining this as just the place of the resident of the Client severely limits their choice in place of birth and birth attendant which can have negative emotional and financial impacts.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	U. Low Risk pregnancy: Pregnancy in which there are no active complications and that there are no maternal or fetal factors that place the pregnancy at increased risk for complications.	<b>Partially Adopted.</b> DHEC will use the definition from The Birthing Center Act, S.C. 44-89-30. Low risk "means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health."
<i>Additional Comment:</i>	"Medical intervention" should be removed as it could be interpreted as something as simple as antibiotics for a UTI, this does not place a pregnant person into a high risk category. Could be a dangerous open ended statement	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	EE. Physician.	<b>Adopted.</b>
<i>Additional Comment:</i>	Consider using LLR's definition or "licensed by the sc board of medical examiners to practice medicine in SC"	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	FF. Prescription Medication	<b>Not Adopted.</b> Definition is from statute (Section 40-43-30). The requested change would contradict statute. This regulation authorizes Midwives to administer certain Prescription Medications to Clients.
<i>Additional Comment:</i>	“or restricted to use by physician or Authorized Healthcare provider only” is concerning language. Are Licensed Midwives authorized? What if they write for medications for Licensed Midwives to administer? Restrictive language that could potentially be used against Licensed Midwives at some point. Should be in definitions that Licensed Midwives are an authorized Healthcare provider as an extension of our consulting APRN or physician.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	LL. Transfer of Care. Change "Higher medical authority" to "relinquishes care to another medical professional."	<b>Partially Adopted.</b> Changed to Authorized Healthcare Provider or Emergency Medical Services Personnel.
<i>Additional Comment:</i>	Deminishes the professionalism, scope and skill of the licensed midwife.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	Add Line item for Telemed/ Telehealth: Virtual consultations and visits with Authorized Healthcare Provider	<b>Not Adopted.</b> We do not regulate whether or not a physician/authorized healthcare professional is allowed to use telehealth.
<i>Additional Comment:</i>	Telemed/ telehealth consultations are now federally acceptable forms for means of communication and assessment by Authorized Healthcare providers. These visits are reimbursible by Medicaid and can help ease the burden both financially, as they cost less than in- person appointments, and scheduling as they lend themselves to be more accesible for both the Client and the Authorized Healthcare provider. A client can follow through with this appointment without need of transportation or in the case of illness, loss of childcare etc. as currently demonstrated during the COVID 19 pandemic.	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
101: Definitions	Add line item for VBAC: Vaginal Birth After Cesaerean	<b>Not Adopted.</b> We are consistent with LLR's Boards of Nursing Advisory Opinion #68.
<i>Additional Comment:</i>	There are only 6 other states that prohibit VBAC at home. The other 28 states that regulate midwives allow for and have successfully high rates of home vaginal birth after cesaerean. Pregnant people with prior low transverse incision should be allowed trial of labor in the setting that they feel most comfortable with the professional birth team that they choose. Clients who are given these options are more likely to have a vaginal birth with decreased risk of maternal and neonatal morbidity. For some of these people, home is the safest and best option for them. If it is prohibited by regulation then there will continue to be famlies who attempt to have a VBAC at home unattended or with improperly trained support. VBAC should be considered with prior low transverse incision, no prior classical incision and documented physician consultation explaining risks and informed consent.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
102 Licensure Requirements	Correct typo to read "...the expiration of license by..."	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
102 Licensure Requirements	C.3. Strike twenty-four (24) and replace with "A License for a Midwife shall be effective for a thirty-six (36) month period following the date of issue."	<b>Adopted.</b>
<i>Additional Comment:</i>	Renewal should be three (3) year period to coincide with NARM to ease burden on DHEC and on licensed midwives	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
102 Licensure Requirements	F. Licenseing Fees: \$225 every three years	<b>Adopted.</b>
<i>Additional Comment:</i>	To coincide with three (3) year renewal	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
102 Licensure Requirements	H. License Renewal. The Midwife shall renew his or her License every thirty-six (36) months...	<b>Adopted.</b>
<i>Additional Comment:</i>	Renewal should be three (3) year period to coincide with NARM to ease burden on DHEC and on licensed midwives	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
201 General	Add "Licensed" before the second Midwife and Midwife Apprentice.	<b>Adopted.</b>
<i>Additional Comment:</i>	It reads a bit confusing as it is currently written	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
203 Consultations	Change "consultations" to "Meetings" as per the suggestion in the definitions above	<b>Partially Adopted.</b> Changed to "Compliance Meeting" for clarity.
<i>Additional Comment:</i>	Using "consultations" for meetings with DHEC can lend itself to being confusing.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
302 Violations of Classifications	Is there statutory basis to collect fines?	<b>S.C. 44-1-140</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
400 Scope of Practice	C.3. Strike "first-degree and second-degree"	<b>Adopted.</b>
<i>Additional Comment:</i>	episiotomies are not classified as first degree and second degree, just episiotomy	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
400 Scope of Practice	D.2. Provision of care for Client with a previous classical cesarean section	<b>Not Adopted.</b> We are consistent with LLR's Boards of Nursing Advisory Opinion #68.
<i>Additional Comment:</i>	Pregnant people must be given the choice and autonomy to have trial of labor after cesarean section with the provider of choice and in the place that they feel safest. A client with a previous c-section with a low transverse incision may be assessed prenatally and considered appropriate for out of hospital birth, with informed consent, with a Licensed Midwife. See definitions above.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
500 Continuing Education	B. 1.c. strike "first-degree and second-degree"	<b>Adopted.</b>
<i>Additional Comment:</i>	episiotomies are not classified as first degree and second degree, just episiotomy	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
601 Incident	A. Add "when transport ends in maternal or neonatal death."	<b>Not Adopted.</b> This is consistent with other Departmental regulations regarding transfer of clients, patients, and residents out of a licensed program.
<i>Additional Comment:</i>	Coordinated transfers of care should be appropriately reported on quarterly reports. This 48 hour incident report for transfers places undue reporting burden on Midwives for clients who have been appropriately cared for.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
603 Reporting Mortalities	Strike section	<b>Not Adopted.</b> It is a different department.
<i>Additional Comment:</i>	Redundant to section 601 B unless this is referring to a different department than in section 601 B	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.a. Strike race	<b>Adopted.</b>
<i>Additional Comment:</i>	Some clients decline to report race on intake and on birth certificates.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.a. Strike "name and address of Physician to be contacted in the event of emergency"	<b>Partially Adopted.</b> This was edited for clarity.
<i>Additional Comment:</i>	This is consulting healthcare provider information, not generally recorded on a client's intake face sheet	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.e. add "unless client refuses GDM testing (as listed in 900 d 1j if at high risk for...)." Remove and create a new line item for syphilis testing	<b>Partially Adopted.</b>
<i>Additional Comment:</i>	Clients at low risk for gestational diabetes often decline traditional testing in lieu of alternate nutritional agreements.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.k. Strike "estimated amount"	<b>Partially Adopted.</b> Changed to "Estimated amount (small, moderate, or large)..."
<i>Additional Comment:</i>	no way to measure amniotic fluid	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B 1.l. Where is the line item?	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.m. Strike the word "and"	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.1.p. Should read "breast-feeding" resources	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.2.a. Strike race	<b>Adopted.</b>
<i>Additional Comment:</i>	Some clients decline to report race on intake and on birth certificates	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
701 Content	B.2.d. Change "resuscitations" to "resuscitation"	<b>Adopted.</b>
<i>Additional Comment:</i>		



<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
800	What is section 800 “reserved” for?	The Department is creating consistency among regulations to align sections among its regulations within Healthcare Quality. Other regulations use this section for Admissions. This regulation does not have an Admissions section.
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	Create a separate section for items: C.2, C.9, C.10 and C.11	<b>Adopted.</b>
<i>Additional Comment:</i>	No need to educate on or recommend these items at each prenatal visit as it creates redundancy. Documentation of discussion of these items as needed should be sufficient.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	C.4. Strike line item	<b>Adopted.</b>
<i>Additional Comment:</i>	Not evidence based to dip urine at each appointment, only as needed.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	C.8. Change “yones” to “tones”	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.1. Change "twelve (12) weeks" to "eight (8) weeks"	<b>Adopted.</b>
<i>Additional Comment:</i>	Some clients begin as early as 8 weeks and need to or prefer to have blood work done at that time. This helps us potentially detect issues (such as low hemoglobin) as soon as 8 weeks and simply broadens our window for treatment of issue.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.1.h. add "Optional, with informed consent from the Client"	<b>Adopted.</b>
<i>Additional Comment:</i>	this test should be optional	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.2. Definition: change to "thirty-five (35) weeks zero (0) days to thirty-seven (37) weeks zero (0) days"	<b>Adopted.</b>
<i>Additional Comment:</i>	Ensures that the window of time is sufficient enough to not have to obtain tests more than needed.	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.2.a. Change to "Council Client regarding Screening for Group B Streptococcus per current CDC guidelines and recommendations."	<b>Not Adopted.</b> Evidenced-based practice, Group B Streptococcus is the most common cause of life-threatening infections in newborns.
<i>Additional Comment:</i>	This test should be optional. Despite evidence-based education, some clients will decline GBS screening	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.2.b. Create and move to a new section for twenty-four (24) to twenty- eight (28) weeks, remove from this section	<b>Adopted.</b>
<i>Additional Comment:</i>	This labwork should be obtained and reviewed closer to 24-28 weeks, when the maternal blood volume has expanded and hemodilution has occurred.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	D.2.c. Add "Assess and offer for Clients with lifestyle risk factors"	<b>Adopted.</b>
<i>Additional Comment:</i>	The majority of home birth clients are monogamous and this could be a financial burden. Additionally, Repeat STI screening should be reserved for those with lifestyle risk factors	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
901 Prenatal Care	E. Strike "the written instructions signed and dated by the Client"	<b>Adopted.</b>
<i>Additional Comment:</i>	Documentation in the chart that these items were given should be sufficient. While documentation is necessary, signature during antepartum or postpartum instructions would be often forgotten. Post partum instructions during initial postpartum care provides for more favorable retention of information. A signature for these items is overkill	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
902 Intrapartum Care	A. Either keep verbiage as it is written in the current regulations or change to "Assess and monitor Client vital signs according to the standard of care. Assess, evaluate, and document the status of labor and the Client and fetal conditions throughout the labor and birth process, including Client vital signs and fetal heart tones in accord with sound obstetric and neonatal practice"	<b>Adopted.</b>
<i>Additional Comment:</i>	Home birth is not a medical event, it is a normal bodily function, the frequency of vitals collections should not be in regulation as this is policy and procedure. Mandatory collection of vitals every hour is excessive and is an interference with and intervention of the normal function of labor.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
903 Postpartum Care	A.1. change to "Assess, monitor and document Client and Newborn vital signs according to the standard of care during the first 2 hours and upon discharge.	<b>Adopted.</b>
<i>Additional Comment:</i>	Home birth is not a medical event it is a normal bodily function, the frequency of vitals collections should not be in regulations as this is a policy and procedure. Mandatory collection of vitals every hour is excessive and is an interference with and intervention of the normal transition of client and newborn immediately following the birth.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
904 Newborn Care	A 3. Strike this line item	<b>Not Adopted.</b> Added "if necessary" for clarity.
<i>Additional Comment:</i>	This is arbitrary. Why do we need to have in regulation to chart how we are providing for warmth and stimulation? Most home born babies do not need stimulation. Blankets and heating pads are on the list of supplies for the Client to have available for each birth. This is an unnecessary item for regulation.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
904 Newborn Care	B. Newborn Screening: add "If the specimen is not collected by the midwife or is not collected within three (3) days..."	<b>Not Adopted.</b> This is copied from statute. This corrects the error in the current regulation.
<i>Additional Comment:</i>	Many clients with traditional insurance opt to have the newborn screen collected by their pediatrician to activate their insurance instead of being out of pocket for midwifery collection processed by DHEC lab	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1000 Informed Consent	D. Strike this line item	<b>Adopted</b>
<i>Additional Comment:</i>	Anatomic ultrasounds are generally performed between 18 and 22 weeks of pregnancy. With reliable dating, early ultrasound is unwarranted and introduces unnecessary risk factors to the fetus. Late ultrasound is unreliable for dating or fetal size and only indicated in higher risk situations or questions of presentation.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1100 Physical Examinations	Change title of section from Physical Examinations to “Client Medical Consultations”	<b>Not Adopted.</b>
<i>Additional Comment:</i>	Replace Physical Examinations with “Client Medical Consultations” within this entire section.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1100 Physical Examinations	A.1. Change “Physical Examination” to “Medical Consultation.” "The Midwife shall require the Client to undergo an initial Medical Consultation either in person or via telemedicine completed by a Physician or other Authorized Medical Provider, at the Provider's discretion, within the first 2 trimesters."	<b>Not Adopted.</b> This is consistent with evidence-based practice. Nothing in this regulation prohibits televisits. The S.C. Department of Health and Environmental Control cannot opine on laws governing physicians' and authorized healthcare providers' scopes and standards of practice.
<i>Additional Comment:</i>	Clients may not be able to obtain an appointment during that window of time (fourteen {14} to twenty {20} weeks) for various reasons including but not limited to lack of transportation, illness, limited availability with Authorized Healthcare Provider, life circumstances, etc. Due to our current Pandemic, Telemed/ telehealth visits are now federally accepted forms of medical appointments and are now reimbursible through Medicaid. When the Authorized Healthcare Provider has been given the client's prenatal flow chart and any lab reports to review, they can then advise the client appropriately. Any medications to be prescribed to Client can be written and sent to the chosen pharmacy by the Authorized Healthcare Provider at the time of appointment whether in person or virtual. Licensed Midwives are assessing the Client for low risk at each appointment.	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1100 Physical Examinations	A.2.a. Strike entire line item	Not Adopted. The Birthing center statute requires the physician shall make a determination that the birth is low risk. Consistent with other regulations
<i>Additional Comment:</i>	Providers who have an appointment with the Clients for those visit may not give a written and signed document. We cannot make another provider write a document. Licensed Midwives palpate for fetal position at every prenatal visit, some medical providers who see for these visits do not perform uterine palpation. Licensed midwives cannot be responsible for other providers, likewise Authorized Healthcare providers cannot be responsible for our Clients.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1100 Physical Examinations	B 1. Change title from “Physical Examination” to “Client Medical Consultation”	<b>Not Adopted.</b> This is consistent with evidence-based practice.
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1100 Physical Examinations	Change to read “after thirty-four (34) weeks of gestation	<b>Adopted.</b>
<i>Additional Comment:</i>	It can be difficult to find a medical provider and schedule an appointment in that short time frame for various reasons including but not limited to lack of transportation, illness, no availability with Authorized Medical Provider, life circumstances, etc. Due to the current Pandemic, Telemed/ telehealth visits are now federally accepted forms of medical appointments and are now reimbursible through Medicaid. When the Authorized Medical Provider has been given the client's prenatal flow chart and any lab reports to review, they can then advise the client appropriately. Any medications to be prescribed to Client can be written and sent to the chosen pharmacy at the time of appointment whether in person or virtual.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1200 Prescription Medication Administration	B 2... where is this line item?	<b>Adopted.</b> This item is the eye prophylactic as required by statute.
<i>Additional Comment:</i>		

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1200 Prescription Medication Administration	B.7. Add "or alternative antibiotic, as deemed appropriate and prescribed by Authorized Medical Provider in accordance with current CDC guidelines"	<b>Adopted.</b>
<i>Additional Comment:</i>	For cases of penicillin allergy alternative antibiotics must be available	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1200 Prescription Medication Administration	B.8. Change to read "IV fluids"	<b>Adopted.</b>
<i>Additional Comment:</i>	Lactated Ringer's or Normal Saline would be appropriate here.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1200 Prescription Medication Administration	Add line item for "other anti-hemorrhagic medications as prescribed by Authorized Medical Provider"	<b>Partially adopted.</b> Misoprostol is not FDA-approved as a post-hemorrhagic medication.
<i>Additional Comment:</i>	Authorized Medical Providers may prescribe anti-hemorrhagic medications in accordance with evidence based research and updated protocols in accordance with the World Health Organization. Efficient, appropriate and accepted medications include misoprostol and methergine in addition to synthetic oxytocin.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	Change title to "Midwife Medical Consultation"	<b>Not Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	A. Strike: " and the Client's decision, as evidenced by the Client's signature."	<b>Not Adopted.</b> This is consistent with other Departmental regulations requiring evidence that a Client has received relevant information about their care from the licensed facility or provider.
<i>Additional Comment:</i>	When the Licensed Midwife should need to consult with a medical provider, the client may not necessarily be present. Medical consultation by midwife to Authorized Healthcare Provider may take place virtually or over the phone at any time. Physicians don't always record the time of their appointment or any consultations with midwives. Documentation in the chart of recommendations by the Authorized Healthcare Provider for the client is sufficient. Signature to confirm decision and recommendations upon medical consultation by the Licensed Midwife to the Authorized Healthcare Provider should be evidence on the informed consent document upon the start of care. This requirement is redundant.	

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.1.n Strike "Failure to gain weight" or add "without adequate nutrition." to the end of the line item	<b>Adopted.</b>
<i>Additional Comment:</i>	Obese clients who are committed to excellent nutrition often exhibit low weight gain due to nutritional choices being optimized	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	Add line item: VBAC	<b>Not Adopted.</b> We are consistent with LLR's Boards of Nursing Advisory Opinion #68.
<i>Additional Comment:</i>	May be considered with prior low transverse incision, no prior classical incision and documented physician consultation explaining risks and informed consent.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.2.a. Add "greater than 24 hours."	<b>Adopted</b>
<i>Additional Comment:</i>	As it is written, it is too vague and leaves it open to interpretation	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.2.e. Add "with non-reassuring fetal heart tones"	<b>Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.4.h Change to more than ten (10) pounds	<b>Adopted.</b>
<i>Additional Comment:</i>	Well nourished, healthy Clients can give birth uneventfully to babies who weigh more than 9 pounds without signs of hypoglycemia or other issues.	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.4.j. Strike line item	<b>Adopted.</b>
<i>Additional Comment:</i>	No need to consult for post maturity unless the baby has an abnormal newborn exam	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.4.k. Strike "Meconium staining." Change the remaining line item to "does not urinate within first twenty-four (24) hours or meconium within the first forty-eight (48) hours	<b>Partially Adopted.</b> "Does not urinate or pass meconium in the first twenty-four (24) hours following birth;"
<i>Additional Comment:</i>		

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1300 Medical Consultation	B.4.n. Strike "Rectal" Change one hundred six (106) to one hundred and six tenths (100.6)	<b>Adopted.</b> Correction was made.
<i>Additional Comment:</i>	Rectal temperatures are no longer recommended. Fever in neonate is not 106degrees F, it is 100.6 degrees F	
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1500 Transfer of Care	A. Strike "by dialing 911"	<b>Not Adopted.</b>
<i>Additional Comment:</i>		
<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
1500 Transfer of Care	B. Strike " Upon arrival of the emergency medical services personnel, Physician, or other Authorized Healthcare Provider, the midwife shall transfer the care of the Client to the emergency medical services personnel, Physician or other Authorized Healthcare Provider. "	<b>Not Adopted.</b> Nothing is preventing the Client or responsible party from refusing the emergency care when it arrives and driving their own vehicle.
<i>Additional Comment:</i>	EMS providers are not ideally equipped nor are they trained to take over care in an obstetric emergency. Also, emergent transport via private car is often more expedient in some situations. Additionally, Licensed Midwives cannot rely on clients to have copiers or printers which in turn does not provide for printing in the field. Written summaries can be faxed to the receiving provider and/ or hand delivered by the transferring midwife at the receiving hospital for copies of the chart to be made at the time of report of situation to the receiving provider.	



SECTION	COMMENT	DEPARTMENT RESPONSE
1800 Midwifery Advisory Council	<p>Currently the MAC is an appeal committee for DHEC actions. This should remain in the regulations. It provides the opportunity to have members of the profession review actions related to these regulations. Members of this committee are in a good position to keep the public safe. The council shall establish a committee for peer review to consult with midwives on questions of ethics, competency, licensure and performance, and to serve as an appeals committee for disciplinary action under this regulation. A licensed midwife or midwife apprentice shall have 30 days to provide notice of appeal by letter directed to the Midwife Advisory Council. Upon receipt of a request for appeal of agency action, the MAC shall schedule an appeal at the next available meeting. Only actions of the department that fall under this regulation may be appealed before the MAC. A licensed midwife may be represented by an attorney in a appeal before the MAC.</p>	<p><b>Not Adopted.</b> This contradicts S.C. 44-1-60. The prior regulation was enacted before this statute was changed.</p>
<i>Additional Comment:</i>		

<b>SECTION</b>	<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
N/A	What are the following sections reserved for? SECTION 1900 – [RESERVED] SECTION 2000 – [RESERVED] SECTION 2100 – [RESERVED] SECTION 2200 – [RESERVED] SECTION 2400 – [RESERVED] SECTION 2500 – [RESERVED] SECTION 2600 – [RESERVED]	Generally used for Design and Construction, which is not applicable to this regulation. Fire Protection, Prevention, and Life Safety, which is not applicable to this regulation. General Construction, which is not applicable to this regulation. Exits, which is not applicable to this regulation. Electrical, which is not applicable to this regulation. HVAC, which is not applicable to this regulation. Physical Plant, which is not applicable to this regulation.
<i>Additional Comment:</i>		

(x) ACTION/DECISION  
( ) INFORMATION

Date: August 13, 2020

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

From: Bureau of Facilities Oversight

**Re: Notice of Proposed Regulation amending R.61-75, *Standards for Licensing Day Care Facilities for Adults*.**

## I. Introduction

The Bureau of Facilities Oversight (“Bureau”) proposes the attached Notice of Proposed Regulation amending R.61-75, *Standards for Licensing Day Care Facilities for Adults*, for publication in the August 28, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in S.C. Code Section 44-7-260, which requires the Department of Health and Environmental Control (“Department”) to establish and enforce basic standards for the licensure, maintenance, and operation of health facilities and services in order to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## II. Facts

1. The Bureau proposes amending R.61-75 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.
2. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received public comments from five parties by the March 30, 2020, close of the public comment period. Attachment C presents a summary of these public comments received and Department responses.
3. The Bureau held a stakeholder meeting on March 12, 2020. The Bureau considered stakeholder feedback in formulating the proposed amendments herein.
4. Appropriate Department staff conducted an internal review of the proposed amendments on June 29, 2020.

## III. Request for Approval

The Bureau of Facilities Oversight respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.

Angie Smith

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Angie Smith  
Interim Director  
Bureau of Facilities Oversight

Gwendolyn C. Thompson

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Gwen C. Thompson  
Deputy Director  
Healthcare Quality

Attachments:

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

**ATTACHMENT A**

**STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR REGULATION 61-75, Standards for Licensing Day Care Facilities for Adults**

**August 13, 2020**

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

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

Statutory Authority: 1976 Code Sections 44-7-260 et seq.

61-75. Standards for Licensing Day Care Facilities for Adults.

**Preamble:**

The Department of Health and Environmental Control (“Department” or “DHEC”) proposes amending R.61-75 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other DHEC Healthcare Quality regulations.

The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-75 was last amended in 2015.

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

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

**Section-by-Section Discussion of Proposed Amendments:**

Amended the Table of Contents to reflect proposed amended text.

Amended text throughout to capitalize defined terms.

Added and amended violation classifications throughout for consistency with other DHEC Health Quality regulations.

The proposed amendments update the structure of the regulation throughout for consistency with other DHEC Health Quality regulations.

Section 100 title amended and reformatted for consistency with other Department regulations.

**101. Definitions.**

101.C definition added for clarity.

101.D (former 101.C) definition amended for clarity per public comment.

101.E definition added for clarity.

101.F (former 101.D) definition amended for clarity and consistency with other Department regulations.  
101.G definition added for clarity and consistency with other Department regulations.  
101.H definition added for consistency with other Department regulations.  
101.I definition added for consistency with other Department regulations.  
101.J (former 101.E) definition amended to remove redundancy.  
101.G definition removed due to being irrelevant.  
101.L (former 101.H) definition amended for clarity.  
101.M definition added for clarity and amended for consistency with other Department regulations.  
101.N definition added for clarity and amended for consistency with other Department regulations.  
101.P definition added for clarity and to include an adopted public comment.  
101.Q definition added for clarity and amended for consistency with other Department regulations.  
101.R definition added for clarity and amended for consistency with other Department regulations.  
101.S definition added for clarity and amended for consistency with other Department regulations.  
101.T definition added for clarity and amended for consistency with other Department regulations.  
101.U definition added for clarity and amended for consistency with other Department regulations.  
101.V (former 101.J) definition amended for clarity and consistency with other Department regulations.  
101.K definition removed due to being irrelevant.  
101.W definition added for clarity and consistency with other Department regulations.  
101.X (former 101.M) definition amended to remove redundancy.  
101.N definition removed due to being irrelevant.  
101. Y definition added for clarity and consistency with other Department regulations .  
101.Z definition added for clarity and consistency with other Department regulations.  
101.AA definition added for clarity.  
101.BB definition added for consistency with other Department regulations.  
101.CC (former 101.O) definition amended for clarity per public comment.  
101.DD definition added for clarity and consistency with other Department regulations.  
101.EE definition added for consistency with other Department regulations.  
101.FF definition added for clarity and consistency with other Department regulations.  
101.GG definition added for clarity and consistency with other Department regulations.

**Section 102. Licensure.** (former 102.Licensure Requirements.) amended for consistency with other Department regulations.

102.A amended for consistency with other Department regulations.  
102.B amended for consistency with other Department regulations.  
Former 102.C re-codified to 102.D.  
Former 102.D re-codified to 102.D.  
Former 102.E re-codified to 102.D.  
102.C recodified from former 102.I and amended for consistency with other Department regulations.  
102.D added for consistency with other Department regulations.  
102.E (former 102.F) amended for clarity.  
102.F (former 102.G) amended for consistency with other Department regulations.  
102.G added for clarity.  
102.H amended for clarity and consistency with other Department regulations.  
102.I amended for clarity and consistency with other Department regulations.  
102.J added for clarity and consistency with other Department regulations.  
Former 102.K recodified to Section 800.  
102.K (Former 102.J) amended for clarity and consistency with other Department regulations.  
Former 102.L recodified to 102.C for consistency with other Department regulations.  
Former 102.M recodified to 1000.C.  
Former 102.N recodified to 102.M and amended for clarity and consistency with other Department regulations.

102.L added for consistency with other Department regulations.

102.M recodified from former 102.N and amended for clarity and consistency with other Department regulations.

Former **103. Facility Closure.** recodified to Section 602 for consistency with other Department regulations.

Former **104. Zero Census.** recodified to Section 602 for consistency with other Department regulations.

Section 200 title amended for consistency with other Department regulations.

**202. Inspections/and Investigations.**

202.B amended for consistency with other Department regulations.

202.C amended for create clarity.

202.D amended for clarity.

202.E amended for clarity and consistency with other Department regulations and to adhere to statute.

202.F amended for clarity and consistence with other Department regulations

Section 300 title reformatted for consistency with other Department regulations.

**301. General.** (Former **301. Enforcement Actions.**) title amended for consistency with other Department regulations. Text amended for clarity.

**302. Violation Classifications.**

302.A,B,C,D amended for clarity.

302.E amended for clarity and consistency with other Department regulations.

302.F amended for consistency with other Department regulations.

Section 400 title reformatted for consistency with other Department regulations.

Former **401. Policies and Procedures.** title removed due to redundancy.

400.A (former 401.A) amended for clarity and partly recodified to 400.B,C.

400.B recodified from former 401.A and amended for consistency with the requirements of this regulation and the Alzheimer's Special Care Disclosure Act.

400.C recodified from former 401.A and amended for clarity.

Former **402. Administrator.** recodified to 502.A,B for consistency with other Department regulations.

Former **403. Administrative Records.** recodified for consistency with other Department regulations.

Former 403.A recodified to Section 1500 and 1601.

Former 403.B recodified to 901.

Former 403.C recodified to 902.

Former 403.D recodified to 1303.

Former 403.E recodified to 102.B.

Former 403.F removed due to not being necessary.

Former 403.G recodified to 2605.

Former 403.H recodified to 2500.A

Former **404. Personnel.** recodified for consistency with other Department regulations.

Former 404.A recodified to 501.A.

Former 404.B recodified to 503.A.

Former 404.C recodified to 501.B.

Former 404.D recodified to 506.  
Former 404.E recodified to 504.  
Former 404.F recodified to 505.  
Former 404.G recodified to 501.B.  
Former 404.H recodified to 505.F.

Former **SECTION 500. CARE OF PARTICIPANTS** removed and recodified to various sections for consistency with other Department regulations.

Former **501. Activities and Programs.** recodified for consistency with other Department regulations.

Former 501.A recodified to 901.A.  
Former 501.B recodified to 901.B.  
Former 501.C recodified to 901.B.  
Former 501.D recodified to 901.C.  
Former 501.E recodified to 901.D.  
Former 501.F removed due to being redundant.  
Former 501.G recodified to 1901.B.  
Former 501.H,I recodified to 1901.A.

Former **502. Medical Needs.** recodified for consistency with other Department regulations.

Former 502.A recodified to 1100.A.  
Former 502.B recodified to 1100.B.  
Former 502.C recodified to 1100.A.  
Former 502.D recodified to 1200.A.  
Former 502.E recodified to 1200.C.

Former **503. Participant Records.** recodified to 701.A,B for consistency with other Department regulations.

**SECTION 500 – STAFF AND TRAINING** added for consistency with other Department regulations.

**501. General.** add for consistency with other Department regulations.

501.A recodified from 404.A for consistency with other Department regulations.  
501.B recodified from 404.C and 404.G for consistency with other Department regulations.

**502. Administrator.** recodified from former Section 400 for consistency with other Department regulations

502.A recodified from former 402.A.  
502.B recodified from former 402.B.  
502.C recodified from former 402.A and amended for consistency with other Department regulations.  
502.D recodified from former 402.A and amended for consistency with other Department regulations.

**503. Staffing.** recodified from former 404 for consistency with other Department regulations.

503.A recodified from former 404.B  
503.B added for consistency with other Department regulations.

**504. Orientation.** recodified from former 404.E and amended for clarity and consistency with other Department regulations.

**505. Training.** recodified from former 404.F,H and amended for clarity.



**506. Health Assessment. Recodified from former 404.D** and amended for consistency with other Department regulations.

Former **SECTION 600. FOOD SERVICE** recodified to 1300 for consistency with other Department regulations.

Former **601. General** recodified for consistency with other Department regulations.

- Former 601.A recodified to 1301.A.
- Former 601.B recodified to 1301.B.
- Former 601.C recodified to 1301.C.
- Former 601.D recodified to 1301.C.
- Former 601.E removed due to redundancy.
- Former 601.F recodified to 1301.D.
- Former 601.G removed due to being unnecessary.

Former **602. Meals and Special Diets** recodified to 1302.

- Former 602.A recodified to 1302.A.
- Former 602.B recodified to 1302.B.
- Former 602.C recodified to 1302.B.
- Former 602.D recodified to 1302.B.

**SECTION 600 – REPORTING.** Add for consistency with other Department regulations.

**601. Incidents.** add for consistency with other Department regulations.

601.A recodified from former 503.A.6 and 703 and amended for clarity and consistency with other Department regulations.

- 601.B recodified from former 703 and amended for clarity.
- 601.C recodified from 703.B and amended for clarity.

**602. Closure and Zero Census.** add for consistency with other Department regulations.

- 602.A recodified from former 103.A and amended for clarity.
- 602.B recodified from former 103.B and amended for clarity.
- 602.C recodified from former 104 and amended for clarity.
- 602.D recodified from former 103.A and amended for clarity.

**603. Reportable Diseases and Infections.** add for consistency with other Department regulations.

Former **SECTION 700. FUNCTIONAL SAFETY** recodify to various sections for consistency with other Department regulations.

Former **701. Maintenance** recodified to 1601 for consistency with other Department regulations.

Former **702. Emergency/Disaster Preparedness** recodified for consistency with other Department regulations.

- Former 702.A recodified to 1401, 1501, and 1503.B.
- Former 702.B recodified to 1504.A
- Former 702.C removed due to being unnecessary.

Former **703. Accidents/Incidents** recodified to 601 for consistency with other Department regulations.

**SECTION 700 – PARTICIPANT RECORDS** added for consistency with other Department regulations.

**701. Content.** recodified from 503.A and amended for clarity.

**702. Assessment.** recodified from 503.A.4.a and amended for clarity.

**703. Individual Plan of Care.** recodified from 503.A.4 and amended for clarity and consistency with other Department regulations and to partially adopt public comment.

**704. Record Maintenance.** add for consistency with other Department regulations.

Former **SECTION 800. INFECTION CONTROL AND SANITATION** recodified to 1700.

Former **801. General.** recodified to 1700.A

Former **802. Linen and Laundry.** recodified to 1703 and 2602.F.

Former **803. Housekeeping.** recodified to 1704.

Former **804. Sanitation.** recodified to 1705.

Former **805. Outside Areas.** recodified to 1706

Former **806. Pets.** recodified to 1707.

Former **807. Tuberculosis Risk Assessment.** recodified to 1702.

Former **808. Staff Tuberculosis Screening.** recodified to 1702.

**SECTION 800 – ADMISSION AND RETENTION** recodified from former 102.K and amended for clarity.

Former **SECTION 900. STATEMENT OF RIGHTS OF ADULT DAY CARE PARTICIPANTS** recodified to 1000 for consistency with other Department regulations.

Former **901. Statement of Rights of Adult Day Care Participants**

Former 901.A recodified to 1001.A.

Former 901.B recodified to 1001.

Former 901.C recodified to 901.C

**SECTION 900 – PARTICIPANT CARE AND SERVICES** added for consistency with other Department regulations.

**901. Activities and Programs**

901.A recodified from former 403.B and 501.A and amended for clarity.

901.B recodified from former 501.B,C and amended for clarity.

901.C recodified from former 501.D and amended for clarity.

901.D recodified from former 501.E and amended for clarity.

**902. Daily Census.** recodified from former 403.C and amended for clarity.

Former **SECTION 1000. DESIGN AND CONSTRUCTION** recodified to 1900 for consistency with other Department regulations.

Former **1001. General.** recodified to 1901.

Former **1002. Applicable Code.** recodified to 1902.

Former **1003. Submission of Plans and Specifications.** recodified to 1903.

Former **1004. Construction Inspections.** recodified to 1904.

**SECTION 1000 – PARTICIPANT RIGHTS** added for consistency with other Department regulations.

**1001. Statement of Rights of Adult Day Care Participants.** recodified for consistency with other Department regulations.

1001.A recodified from former 901.A.

1001.B recodified from former 901.B.

1001.C recodified from former 901.C.

**1002. Discharge.** added for consistency with other Department regulations.

Former **SECTION 1100. FIRE PROTECTION EQUIPMENT AND SYSTEMS** recodified for consistency with other Department regulations.

Former **1101. Alarms.** recodified for consistency with other Department regulations.

Former 1101.A recodified to 2001.A.

Former 1101.B recodified to 2001.B.

Former 1101.C recodified to 1505.

Former **1102. Gases.** Recodified to 2002 for consistency with other Department regulations.

**SECTION 1100 – PARTICIPANT PHYSICAL EXAMINATION** add for consistency with other Department regulations.

1100.A recodified from former 502.A and 502.C and amended for clarity and to adopt public comment.

1100.B recodified from former 502.B.

Former **SECTION 1200. PREVENTIVE MAINTENANCE EQUIPMENT AND UTILITIES** recodified for consistency with other Department regulations.

Former **1201. General.** recodified to 1600.

Former **1202. Signal System.** recodified to 2601.

Former **1203. Restrooms.** recodified to 2602.

Former **1204. Janitor’s Closets.** recodified to 2603.

Former **1205. Storage Areas.** recodified to 2604.

Former **1206. Elevators.** recodified to 2605.

Former **1207. Telephone Service.** recodified to 2606.

Former **1208. Location.** recodified to 2607.

Former **1209. Furnishings/Equipment.** recodified to 2608.

Former **1210. Water Requirements.** recodified for consistency with other Department regulations.

Former 1210.A removed due to not being relevant.

Former 1210.B recodified to 1701.B.

Former 1210.C removed due to not being relevant.

Former 1210.D removed due to being unnecessary.

Former 1210.E recodified to 2300.A.

Former 1210.F recodified to 2300.B.

Former 1210.G removed due to not being relevant.

Former 1210.H recodified to 2300.C.

Former 1210.I removed due to not being relevant.

Former 1210.J recodified to 2300.D.

Former 1210.K recodified to 2300.E.

Former 1210.L recodified to 1304.C.

Former 1210.M. removed to reduce redundancy with other Department Department regulations.

Former **1211. Panelboards.** recodified to 2406.

Former **1212. Lighting.** recodified to 2609.

Former **1213. Heating, Ventilation, and Air Conditioning.** recodified for consistency with other Department regulations.

Former 1213.A recodified to 2500.A.

Former 1213.B recodified to 2500.C.

Former 1213.C recodified to 2500.E.

Former 1213.D recodified to 2500.F.

**SECTION 1200 – MEDICATION MANAGEMENT** added for consistency with other Department regulations.

1200.A recodified from former 502.D and amended for clarity, to meet DEA guidelines, and for consistency with other Department regulations.

1200.B added for consistency with other Department regulations.

1200.C recodified from former 502.E and amended for clarity.

Former **SECTION 1300. SEVERABILITY.** Recodified to 2700 for consistency with other Department regulations.

**SECTION 1300 – MEAL SERVICE** added for consistency with other Department regulations.

**1301. General.** recodified from former 601 and amended for clarity.

**1302. Meals and Special Diets.** recodified from former 602 and amended for clarity and to remove unnecessary regulation.

**1303. Menus.** recodified from former 403.D and amended for clarity and to remove unnecessary regulation.

**1304. Ice and Drinking Water. (II)**

1304.A,B added for consistency with other regulation.

1304.C recodified from 1210.L.

Former **SECTION 1400. GENERAL** recodified to 2800 for consistency with other Department regulations.

**SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS** added for consistency with other Department regulations.

**1401. Disaster Preparedness.** recodified from former 702.A and amended for clarity consistency with other Department regulations.

**1402. Continuity of Essential Services.** added for consistency with other Department regulations.

**SECTION 1500 – FIRE PREVENTION** added for consistency with other Department regulations.

**1501. Arrangements for Fire Department Response and Protection.** recodified from former 702.A and amended for consistency with other Department regulations.

**1502. Tests and Inspections.** recodified from former 403.A and 1201 and amended for clarity.

**1503. Fire Response Training.** recodified from former 404.F.1 and 702.A and amended for clarity and for consistency with other Department regulations.

**1504. Fire Drills.** recodified from former 702.B and amended for clarity and for consistency with other Department regulations.

**1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers.** recodified from former 1101.C and amended for consistency with other Department regulations.

**SECTION 1600 – MAINTENANCE** added for consistency with other Department regulations.

**1601. General Maintenance.** recodified from former 1201 and 701 and amended for clarity.

**1602. Preventive Maintenance of Emergency Equipment and Supplies** added for consistency with other Department regulations.

1602.A added for consistency with other Department regulations.

1602.B recodified from former 1201.

**SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT** added for consistency with other Department regulations.

**1701. Staff Practices.** added for consistency with other Department regulations.

1701.A. recodified from former 801 and amended for clarity and to adhere to current guidance from the Centers for Disease Control and Prevention and for consistency with other Department regulations.

1701.B. recodified from former 1210B.

**1702. Tuberculosis Risk Assessment and Screening.** Recodified from former 807 and 808 and amended to adhere to current guidance from the Centers for Disease Control and Prevention and for consistency with other Department regulations.

**1703. Linen and Laundry.** recodified from former 802 and amended for clarity.

**1704. Housekeeping.** recodified from former 803 and amended for clarity.

**1705. Sanitation.** recodified from former 804 and amended for clarity.

**1706. Outside Areas.** recodified from former 805 and amended for clarity.

**1707. Pets.** recodified from former 806.

**SECTION 1800 – [RESERVED]** added for consistency with other Department regulations.

**SECTION 1900 – DESIGN AND CONSTRUCTION** added for consistency with other Department regulations.

**1901. General.** recodified from former 1001 and 501.H,G and amended for clarity.

**1902. Applicable Code.** recodified from former 1002 and amended for clarity.

**1903. Submission of Plans and Specifications.** recodified from former 1003 and amended for clarity.

**1904. Construction Inspections.** recodified from former 1004 and amended for clarity.

**SECTION 2000 – FIRE PROTECTION, EQUIPMENT, AND LIFE SAFETY** added for consistency with other Department regulations.

**2001. Alarms.** recodified from former 1101 and amended for clarity.

**2002. Gases.** recodified from former 1102 and amended for clarity.

**SECTION 2100 – [RESERVED]** added for consistency with other Department regulations.

**SECTION 2200 – [RESERVED]** added for consistency with other Department regulations.

**SECTION 2300 – WATER SUPPLY** added for consistency with other Department regulations.

2300.A recodified from former 1210.E.

2300.B recodified from former 1210.F.

2300.C recodified from former 1210.H.

2300.D recodified from former 1210.J and amended for clarity.

2300.E recodified from former 1210.K and amended for clarity.

**SECTION 2400 – ELECTRICAL** added for consistency with other Department regulations.

**2401. General.** added for consistency with other Department regulations.

**2402. Lighting and Electrical Services.** added for consistency with other Department regulations.

**2403. Ground Fault Protection.** added for consistency with other Department regulations.

**2404. Exit Signs.** added for consistency with other Department regulations.

**2405. Emergency Electric Service.** added for consistency with other Department regulations.

**2406. Electrical Panelboards.** recodified from former 1211 and amended for clarity.

**SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)** added for consistency with other Department regulations.

2500.A recodified from former 403.H and amended for clarity.

2500.B added for consistency with other Department regulations.

2500.C recodified from former 1213.B and amended for clarity

2500.D added for consistency with other regulation.

2500.E recodified from former 1213.C and amended for clarity.

2500.F recodified from former 1213.D and amended for clarity.

**SECTION 2600 – PHYSICAL PLANT** added for consistency with other Department regulations.

**2601. Signal System.** recodified form former 1202 and amended for clarity.

**2602. Bathrooms.** recodified from former 1203 and 802.C and amended for clarity.

**2603. Janitor’s Closets.** recodified from former 1204 and amended for clarity.

**2604. Storage Areas.** recodified from former 1205 and amended for clarity.

**2605. Elevators.** recodified from former 403.G and 1206 and amended for clarity.

**2606. Telephone Service.** recodified form former 1207 and amended for clarity.

**2607. Location.** recodified from former 1208 and amended for clarity.

**2608. Furnishings/Equipment.** recodified from former 1209 and amended for clarity.

**2609. Lighting.** recodified from former 1212 and amended for clarity.

**SECTION 2700 – SEVERABILITY** recodified from former 1300 for consistency with other Department regulations.

**SECTION 2800 – GENERAL** recodified from former 1300 for consistency with other Department regulations.

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

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its November 12, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC

Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

### **Preliminary Fiscal Impact Statement**

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

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

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

DESCRIPTION OF REGULATION: 61-75, Standards for Licensing Day Care Facilities for Adults

Purpose: The Department proposes amending R.61-75 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-7-260 et seq.

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

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other requirements for licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

### **DETERMINATION OF COSTS AND BENEFITS:**

Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any requirements of these amendments. There are no anticipated additional costs to the regulated community.



UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-75 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for day care facilities for adults. There are no anticipated effects on the environment.

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

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

**Statement of Rationale:**

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

The Department of Health and Environmental Control is proposing amendments to R.61-75. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements for training staff members and new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other requirements for licensure.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-75. Standards for Licensing Day Care Facilities for Adults.

Statutory Authority: 1976 Code Section 44-7-260

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**SECTION 100 – DEFINITIONS AND LICENSURE**

**101. Definitions.**

A. Abuse. Physical ~~a~~Abuse or ~~p~~Psychological ~~a~~Abuse.

1. Physical Abuse. The act of intentionally inflicting or allowing to be inflicted physical injury on a ~~p~~Participant by an act or failure to act. Physical ~~a~~Abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of ~~m~~Medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical ~~a~~Abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other ~~a~~Authorized ~~h~~Healthcare ~~p~~Provider or that is part of a written plan of care by a physician

or other ~~a~~Authorized ~~h~~Healthcare ~~p~~Provider is not considered ~~p~~Physical ~~a~~Abuse. Physical ~~a~~Abuse does not include altercations or acts of assault between ~~p~~Participants.

2. Psychological Abuse. The deliberate use of any oral, written, or gestured language or depiction that includes disparaging or derogatory terms to a ~~p~~Participant or within the ~~p~~Participant's hearing distance, regardless of the ~~p~~Participant's age, ability to comprehend, or disability, including threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

B. Administrator. The individual responsible for the day-to-day management of the Day Care Facility for Adults.

C. Adult. A person eighteen (18) years of age or older.

~~CD. Adult Day Care Services. Activities and therapies offered in a Day Care Facility for Adults through an individualized plan of care~~Individual Plan of Care which sets forth measurable goals or behaviorally stated objectives, with such services being designed to activate, motivate, and retrain impaired or other categories of ~~a~~Adults to enable them to sustain or regain functional independence and promote community integration.

E. Annual. A time period that requires an activity to be performed at least every twelve (12) months.

~~DF. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina as a physician, advanced practice registered nurse, or physician assistant to provide specific treatments, care, or services to~~ pParticipants, ~~e.g., advanced practice registered nurse, physician assistant.~~

G. Blood Assay for *Mycobacterium tuberculosis*. A general term to refer to in vitro diagnostic tests that assess for the presence of tuberculosis infection with *Mycobacterium tuberculosis*. This term includes, but is not limited to, interferon gamma release assays.

H. Consultation. A meeting with a licensed Facility and individuals authorized by the Department to provide information to Facilities in order to enable Facilities to better comply with the regulation.

I. Controlled Substance. A Medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act or the South Carolina Controlled Substances Act.

~~E-J. Day Care Facility for Adults (Facility). A facility, for a~~ Adults 18 years of age or older, which offers in a group setting a program of individual and group activities and therapies. The program is directed toward providing community-based day care services for those ~~a~~Adults in need of a supportive setting, thereby preventing unnecessary institutionalization. The program shall provide a minimum of four (4) and a maximum of fourteen (14) hours of operation a day.

~~FK. Department. The South Carolina Department of Health and Environmental Control.~~

~~—G. Dietitian. A person who is registered by or meets the requirements of the American Dietetic Association and has at least one (1) year of experience in clinical nutrition.~~

HL. Direct Care Staff. Those ~~h~~individuals who are employees (full- and part-time) of the Facility providing responsible for the provision of direct care and supervision services to the Participants, and those individuals contracted to provide care and services of the ~~t~~o pParticipants.

M. Discharge. The point at which treatment, care, and services in a Facility are terminated and the Facility no longer maintains active responsibility for the care of the Participant.

N. Elopement. An instance when a Participant who is physically, mentally, or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves the Facility unsupervised or unnoticed.

Ō. Exploitation.

1. Causing or requiring a pParticipant to engage in activity or labor that is improper, unlawful, or against the reasonable and rational wishes of the pParticipant;

2. An improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a pParticipant by an individual for the profit or advantage of that individual or another individual; or

3. Causing a pParticipant to purchase goods or services for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the pParticipant through cunning arts or devices that delude the pParticipant and cause him or her to lose money or other property.

4. Exploitation does not include requiring a pParticipant to participate in an activity or labor that is a part of a written plan of care or prescribed or authorized by the pParticipant's attending physician.

P. Health Assessment. An evaluation of the health status of a Staff member and/or Volunteer by a physician, other Authorized Healthcare Provider, or a registered nurse. A registered nurse may complete the Health Assessment pursuant to standing orders approved by a physician as evidenced by the physician's signature. The standing orders shall be reviewed Annually by the physician, with a copy of the review maintained at the Facility.

Q. Incident. An unusual, unexpected adverse event in the Facility or on Facility grounds, including any accidents, that could potentially cause harm, injury, or death to Participants or Staff members.

R. Individual Plan of Care (IPC). A documented regimen of appropriate care and services or written action plan prepared by the Facility for each Participant based on the Participant's needs and preferences and which is to be implemented for the benefit of the Participant.

S. Inspection. A visit by the Department for the purpose of determining compliance with this regulation.

T. Investigation. A visit by Department representatives to a licensed Facility or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to statutory and regulatory compliance.

U. License. The authorization to operate a Facility as defined in this regulation and as evidenced by a current certificate issued by the Department to a Facility.

~~Ū. Licensee. The person on whom rests the ultimate responsibility and authority for the conduct of the Day Care Facility for Adults. The individual, organization, or public entity that has received a License to provide care and services at the Facility and with whom rests the ultimate responsibility for compliance with the current regulation.~~

K. Licensing Agency. The Department of Health and Environmental Control.

~~EW.~~ Neglect. The failure or omission of a ~~d~~Direct ~~e~~Care ~~s~~Staff member or direct care ~~v~~Volunteer to provide the care, goods, or services necessary to maintain the health or safety of a ~~p~~Participant including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Failure to provide adequate supervision resulting in harm to ~~p~~Participants, including altercations or acts of assault between ~~p~~Participants, may constitute ~~n~~Neglect. Neglect may be repeated conduct or a single ~~i~~Incident that has produced or could result in physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute ~~n~~Neglect.

~~MX.~~ Participant. An ~~a~~Adult, ~~18 years and above~~, who is receiving service in a Day Care Facility for Adults.

~~N.~~ Person. An individual, trust or estate, partnership, corporation including an association, joint stock company, state, political subdivision, or instrumentality including a municipal corporation of a state, or any legal entity recognized by the State.

Y. Physical Examination. An examination of a Participant by a physician or other Authorized Healthcare Provider which addresses those issues identified in Section 1100 of this regulation.

Z. Prescription Medication. A drug that is required by any applicable federal or state law to be dispensed pursuant only to a Prescription Medication order or is restricted to use by Physicians or other Authorized Healthcare Providers only.

AA. Responsible Party. A Participant's legal guardian, committee, next of kin, or other person acting as agent of the Participant who does not have a legally appointed guardian.

BB. Revocation of License. An action by the Department to cancel or annul a Facility License by recalling, withdrawing, or rescinding its authority to operate.

~~OCC.~~ Sponsor: ~~A family member, guardian, agency, or other person who acts on behalf of the participant.~~ A person, company, institution, group, or organization that assumes responsibility, advocates, and/or pays for care and services for the Participant.

DD. Staff. Those individuals who are employees (full- and part-time) of the Facility, to include those individuals contracted to provide care and services for the Participants.

EE. Suspension of License. An action by the Department requiring a Facility to cease operations for a period of time or to require a Facility to cease admitting Participants, until such time as the Department rescinds that restriction.

FF. Variance. A variance is an alternative method that ensures the equivalent level of compliance with the standards in this regulation.

GG. Volunteer. An individual who performs tasks that are associated with the operation of the Facility without pay and at the direction of the Administrator or his or her designee.

## **102. Licensure Requirements. (II)**

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, ~~or represent, advertise, or market itself (advertise/market)~~ as a Day Care Facility for Adults within South Carolina without ~~possessing first obtaining and possessing a valid~~ License



~~issued annually by from the Department. The Facility shall not enroll Participants prior to the effective date of the License. When it has been determined by the Department that treatment, care, or services are being provided at a location, and the owner has not been issued a License from the Department to provide such treatment, care, and services the owner shall cease operation immediately and ensure the safety, health, and well-being of the Participants. Current or previous violations of South Carolina Code of Laws or Department regulations may jeopardize the issuance of a License for the Facility or the licensing of any other Facility, or addition to an existing Facility that is owned and/or operated by the Licensee. The Facility shall provide only the treatment, care, and services it is licensed to provide pursuant to the definition in Section 101.J. (I)~~

~~B. Compliance. An applicant license shall not be issued to a receive an initial License for a proposed Facility that has not been previously and continuously licensed under Department regulations until unless the licensee applicant has demonstrated demonstrates to the Department that the proposed Facility is in substantial compliance with the Department licensing standards. In the event a Licensee who already has a Facility or activity licensed by the Department makes application for another Facility or an increase in licensed Participants, the currently licensed Facility or activity shall be in substantial compliance with the applicable licensing standards prior to receiving a License for the proposed Facility or an amended License to the existing Facility. A The Facility shall maintain a paper or electronic copy of the licensing standards shall be maintained at the Facility and accessible to all sStaff members and Volunteers. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations. A new facility, or one that has not been continuously licensed under these or prior standards, shall not provide care to participants until it has been issued an initial license.~~

~~C. Issuance of License. A license is issued pursuant to the provisions of 1976 Code Section 44-7-260(A), as amended, and the regulations promulgated thereunder, and shall be posted in a conspicuous place in a public area within the facility. The issuance of a license does not guarantee adequacy of individual care, treatment, personal safety, fire safety or the well being of any occupant of a facility. A license is not assignable or transferable and is subject to revocation by the Department for failure to comply with the laws and regulations of the State of South Carolina.~~

~~D. Effective Date and Term of License. A license shall be effective for a twelve (12) month period following the date of issue and shall expire one (1) year following such date.~~

~~E. Separate Licenses. Separate licenses are required for facilities not maintained on the same premises. A single license or separate licenses may be issued for facilities maintained in separate buildings on the same premises.~~

C. Licensed Services. Facilities authorized to provide services to a set number of Participants, as identified on the face of the License, shall not exceed the number of Participants identified on the face of the License. Facilities shall obtain authorization from the Department prior to establishing new care or services or occupying additional or renovated space. (I)

D. Issuance and Terms of License.

1. The Facility shall post the License in a conspicuous place in a public area within the Facility.

2. The issuance of a License does not guarantee adequacy of individual care, services, personal safety, fire safety, or the well-being of any Participant or occupant of a Facility.

3. A License is not assignable or transferable and is subject to revocation at any time by the Department for the Licensee's failure to comply with the laws and regulations of this state.

4. A License shall be effective for a specified Facility at a specific location for a specified period following the date of issue as determined by the Department. A License shall remain in effect until the Department notifies the Licensee of a change in that status.

5. Facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, shall not be considered as dividing otherwise adjoining or contiguous property. For Facilities owned by the same entity, separate Licenses are not required for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

6. Multiple types of Facilities on the same premises shall be licensed separately even though owned by the same entity.

~~FE.~~ Facility Name. No proposed ~~f~~Facility shall be named nor shall any existing ~~f~~Facility have its name changed to the same or similar name as any other ~~f~~Facility licensed in South Carolina. ~~The Department shall determine if names are similar.~~ If the ~~f~~Facility is part of a “chain operation” it shall then have the geographic area in which it is located as part of its name.

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

G. Required Documentation. The application for initial licensure shall include:

1. The full name and address of the proposed Facility and the owner, and the names of the persons in control of the Facility. The Department may require additional information, including affirmative evidence of the applicant’s ability to comply with this regulation;

2. The applicant’s oath assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation;

3. Proof of ownership of real property in which the Facility is located, or lease agreement allowing the Licensee to occupy the real property in which the Facility is located;

4. Verification of Administrator’s qualifications; and

5. Number of Participants.

~~H.~~ Licensing Fees. Each applicant shall pay a License fee prior to the issuance of a License. The annual license-fee for the initial License shall be three dollars (\$3.00) for each licensed participant. The fee for an increase in the number of Participants for which the Facility is licensed shall be three dollars (\$3.00) for each Participant. The License renewal fee shall be three dollars (\$3.00) per Participant, based upon average Participant census number . The License renewal fees shall also include any outstanding Inspection fees. Such All fees are non-refundable, shall be made payable by check or credit card to the Department of Health and Environmental Control or a secured portal or specific website, and are not refundable shall be submitted with the application.

I. Licensing Late Fee. Failure to submit a renewal application or and fee thirty (30) days or more after to the Department by the License expiration date may shall result in a late fee of seventy-five dollars (\$75.00) or twenty-five percent (25%) of the licensing License fee amount, whichever is greater, in addition to the licensing License fee. Continual Failure to submit completed and accurate renewal applications and/or the License fee and License late fees by the time period specified by the Department may result in an enforcement action to the Department within thirty (30) calendar days of the License expiration date shall render the Facility unlicensed.

J. License Renewal. For a License to be renewed, the applicant shall file an application with the Department, shall pay the License renewal fee, and shall not have pending enforcement actions by the Department. If the License renewal is delayed due to enforcement actions, the License renewal shall be issued only when the matter has been resolved satisfactorily by the Department, or when the adjudicatory process is completed, whichever is applicable.

JK. Change of License Amended License.

1. A The Facility shall request issuance of an amended License by application to the Department prior to any of the following circumstances:

a1. Change of ownership by purchase or lease Facility location from one geographic site to another;

b2. Change of Facility's name or address; or

e3. Change in licensed number of Participants.

~~— 2. Changes in facility name or address (as notified by the post office) shall be accomplished by application or by letter from the licensee.~~

~~— K. Day Care Facilities for Adults shall not serve participants whose needs exceed resources outlined in these regulations. (H)~~

~~— L. Number of Participants. No facility shall at any given time care for more participants than approved and so stated on the face of the license. (H)~~

~~— M. Rights of Participants. A Statement of Rights of Adult Day Care Participants is in Section 901 of this regulation and shall be posted in a conspicuous place in the facility.~~

~~— N. Exceptions to Licensing Standards. The Department may make exceptions to these standards where the Department determines the health, safety, and well being of participants are not compromised, and provided the standard is not specifically required by statute.~~

L. Change of Licensee. The Facility shall request issuance of a new License by application to the Department prior to any of the following circumstances:

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

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

M. Variance. The Facility may request a variance to this regulation in a format as determined by the Department. Variances shall be considered on a case-by-case basis by the Department. The Department may revoke issued variances as it determines appropriate.

### ~~103. Facility Closure~~

~~—A. Prior to the permanent closure of a facility, the licensee shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) days of the closure, the facility shall notify the Department of the provisions for the maintenance of the records. On the date of closure, the license shall be returned to the Department.~~

~~—B. In instances where a facility temporarily closes, the licensee shall notify the Department in writing within fifteen (15) days prior to temporary closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards of the facility prior to its reopening. If the facility is closed for a period longer than one (1) year, and there is a desire to re-open, the facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction related requirements for a new facility.~~

### ~~104. Zero Census~~

~~—In instances when there have been no participants in a facility for any reason for a period of ninety (90) days or more, the facility shall notify the Department in writing that there have been no admissions, no later than the 100th day following the date of departure of the last active participant. At the time of that notification, the Department shall consider, upon appropriate review of the situation, the necessity of inspecting the facility prior to any new and/or re-admissions to the facility. The facility shall still submit an application and pay the licensing fee to keep the license active, even though the facility is at zero census or temporarily closed. If the facility has no participants for a period longer than one (1) year, and there is a desire to admit a participant, the facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction related requirements for a new facility.~~

## **SECTION 200. ENFORCING REGULATIONS**

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

#### **201. General.**

The Department shall utilize ~~inspections~~Inspections, ~~investigations~~Investigations, ~~consultations~~Consultations, and other pertinent documentation regarding a proposed or licensed ~~facility~~Facility in order to enforce this regulation.

#### **202. Inspections/and Investigations.**

A. ~~The Facility shall be inspected~~Inspections by the Department ~~shall be conducted~~ prior to initial licensing, ~~of a facility~~ and the Facility shall be inspected subsequently ~~inspections conducted~~ as deemed appropriate by the Department. (I)

B. ~~All f~~Facilities are subject to ~~i~~Inspection/and ~~i~~Investigation at any time without prior notice by individuals authorized by South Carolina Code of Laws. When ~~s~~Staff members/volunteers/participantmembers, Volunteers, and Participants are absent, the ~~f~~Facility shall

provide posted information at the entrance of the Facility to those seeking legitimate access to the Facility, including visitors, as to the expected return of sStaff members/volunteers/participantsmembers, Volunteers, and Participants. The Facility shall ensure the posted information includes contact information and the expected time of return of the Staff members and Participants. The Facility shall ensure the contact information includes the name of a designated contact and his or her telephone number. The Facility shall ensure the telephone number for the designated contact is not the Facility telephone number. (I)

C. Individuals authorized by South Carolina law shall be granted access to all properties and areas, objects, documents, and records at the time of the Inspections and Investigations and in a timely manner, and have the authority to require the Facility to make photocopies of those documents required in the course of iInspections orand iInvestigations. Photocopies shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. The Pphysical area of Department iInspections and Investigations shall be determined by the extent to which there is potential impact/affect upon Department based on the potential impact or effect on pParticipants as determined by the inspector. (I)

D. When there is noncompliance with the licensing standards, the Facility shall submit an acceptable written plan of correction toin a format determined by the Department, that the Facility shall return the plan of correction shall be signed by the administrator and returned by the date specified on the report of iInspection/ or iInvestigation. The Facility shall describe the following in thewritten plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

E. Inspection Fees. The Facility shall pay the Inspection fee for initial, relocation, and routine Inspections of two hundred twenty-five dollars (\$225.00), plus ten dollars (\$10.00) per Participant. The Facility shall pay the Inspection fee for a Participant increase and/or service modification of one hundred twenty-five dollars (\$125.00), plus ten dollars (\$10.00) per Participant. The Facility shall pay the Inspection fee for follow-up Inspections of one hundred twenty-five dollars (\$125.00), plus ten dollars (\$10.00) per Participant.

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

<b><u>Construction Inspection Fees</u></b>	
<b><u>Plan Inspection</u></b>	
<b><u>Total Project Cost</u></b>	<b><u>Fee</u></b>
<u>&lt; \$10,001</u>	<u>\$750</u>
<u>\$10,001 - \$100,000</u>	<u>\$1,500</u>
<u>\$100,001 - \$500,000</u>	<u>\$2,000</u>
<u>&gt; \$500,000</u>	<u>\$2,500 plus \$100 for each additional \$100,000 in project cost</u>
<b><u>Site Inspection</u></b>	
<u>50% Inspection</u>	<u>\$500</u>

<u>80% Inspection</u>	<u>\$500</u>
<u>100% Inspection</u>	<u>\$500</u>

**203. Consultations.**

Consultations ~~shall~~may be provided by the Department as requested by the ~~f~~Facility or as deemed appropriate by the Department.

**~~SECTION 300. ENFORCEMENT ACTIONS~~**

**SECTION 300 – ENFORCEMENT ACTIONS**

**301. ~~Enforcement Actions~~General.**

When the Department determines that a ~~f~~Facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such ~~f~~Facility, the Department, upon proper notice to the ~~L~~Licensee, may ~~impose a monetary penalty, deny, suspend, or revoke L~~icenses and/or assess a monetary penalty.

**302. Violation Classifications.**

Violations of standards in this regulation are classified as follows:

A. Class I violations are those ~~which the Department determines to that~~ present an imminent danger to the health ~~and welfare, safety, or well-being~~ of the ~~p~~Participants of the ~~f~~Facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition, one or more practices, means, methods or operations in use in a ~~f~~Facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation shall exist after expiration of said time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, ~~which the Department determines to have a direct or immediate relationship to the health, safety or security of the facility's~~ that have a negative impact on the health, safety, or well-being of pParticipants in the Facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation ~~shall~~exists after expiration of ~~said~~this time shall be considered a subsequent violation.

C. Class III violations are those which are not classified ~~as serious as Class I or II in these~~this regulations or those ~~which that~~ are against the best practices ~~as interpreted by the Department.~~ The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation ~~shall~~exists after expiration of ~~said~~this time shall be considered a subsequent violation.

D. ~~Class I and II violations are indicated by notation after each applicable section, i.e.,~~ The notations (I) or (II), placed within sections of this regulation, indicate those standards are Class I or II violations if they are not met, respectively. Violations of sections which are not annotated in that manner denote Failure to meet standards not so annotated are Class III violations.

~~E. The Department shall exercise discretion in arriving at its decision to penalize a facility. The Department will consider the following factors: specific conditions and their impact or potential impact on health, safety or welfare; efforts by the facility to correct; overall conditions; history of compliance; any other pertinent conditions.~~

FE. When imposing a monetary penalty, the Department may invoke 1976 South Carolina Code Section 44-7-320(C) to determine the dollar amount or may utilize the following schedule:

MONETARY PENALTY RANGES			
Frequency of Violation of standard within a 24-month period	Class I	Class II	Class III
1st	\$200-1000	\$100-500	\$0
2nd	500-2000	200-1000	100-500
3rd	1000-5000	500-2000	200-1000
4th	5000	1000-5000	500-2000
5th	5000	5000	1000-5000
6th	5000	5000	5000

<u>FREQUENCY</u>	<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>
<u>1<sup>st</sup></u>	<u>\$500-1,500</u>	<u>\$300-800</u>	<u>\$100-300</u>
<u>2<sup>nd</sup></u>	<u>1,000-3,000</u>	<u>500-1,500</u>	<u>300-800</u>
<u>3<sup>rd</sup></u>	<u>2,000-5,000</u>	<u>1,000-3,000</u>	<u>500-1,500</u>
<u>4<sup>th</sup></u>	<u>5,000</u>	<u>2,000-5,000</u>	<u>1,000-3,000</u>
<u>5<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>2,000-5,000</u>
<u>6<sup>th</sup></u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>

**SECTION 400. POLICIES AND PROCEDURES**

**SECTION 400 – POLICIES AND PROCEDURES (II)**

401. Policies and Procedures

A. ~~The Facility shall maintain and adhere to W~~written policies and procedures addressing each section of the manner in which the requirements of this regulation regarding participant care, rights, and the operation of the facility shall be developed and implemented, and revised as required in order to accurately reflect actual facility operations shall be met. The facility shall establish a time period for review of all policies and procedures and such reviews shall be documented. The facility shall make its policies and procedures available to staff at all times and available to participants and their families and/or caregivers for inspection upon request. The Facility shall be in full compliance with the policies and procedures.

~~B. They~~The Facility shall ensure the written policies and procedures shall include but not be limited to the following:

- 1. Purpose of the facility, to include scope and quality of services;
- 2. Criteria for enrollment;
- 3. Organizational structure defining lines of authority;
- 4. Fees charged;
- 5. Ensuring the compliance with all relevant Federal, State, and local laws which govern operations of the facility; and
- 6. Rights and responsibilities of participants.

- 1. Staffing and training;
- 2. Reporting Incidents, closure, and zero census;
- 3. Participant records;
- 4. Participant care and services;
- 5. Participant rights and assurances;
- 6. Medication management;
- 7. Admissions and Discharge;
- 8. Fire prevention;
- 9. Housekeeping;
- 10. Infection control including prevention, identification, reporting, investigation, and control of infections and communicable diseases among Participants, Staff, Volunteers, visitors, and any individual providing care and services; and
- 11. Facilities providing an Alzheimer's special care program shall include in its policies and procedures the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for persons with Alzheimer's disease pursuant to the South Carolina Alzheimer's Special Care Disclosure Act.

C. The Facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented and signed by the Administrator. The Facility shall ensure all policies and procedures are accessible to Staff, printed or electronically, at all times.

#### ~~402. Administrator~~

~~—A. The governing authority or owner shall select a full time Administrator to manage the facility. The governing authority shall report within seventy two (72) hours to the Department in writing any change in the position of the Administrator. The governing authority, owner, or Administrator shall appoint in writing an individual to act in the absence of the Administrator.~~

~~—B. An Administrator shall have a bachelor's degree, or at least two (2) years of college or technical school with at least an additional four (4) years of experience in the field of nursing, social service, sociology, psychology or in an area closely related to health and social development for the aging. (II)~~

#### ~~403. Administrative Records~~

~~The facility shall have on file at the facility the following documents and references:~~

~~—A. A record of annual inspection by the fire safety authority having jurisdiction, to verify that all applicable fire safety requirements have been met; (I)~~

~~—B. A record of programs and activities;~~



- ~~— C. A complete record of daily attendance of participants and staff for the previous six (6) months;~~
- ~~— D. The daily menu served for the previous six (6) months with substitute food items noted;~~
- ~~— E. Current regulations;~~
- ~~— F. Reports of inspections, reviews, and corrective actions taken related to licensure for the previous three (3) years;~~
- ~~— G. Annual elevator safety inspections, if applicable; and (H)~~
- ~~— H. Annual heating, ventilation, and air conditioning inspection report.~~

#### 404. Personnel

- ~~— A. Direct care staff members and volunteers shall undergo a criminal background check prior to being employed or contracting with a Day Care Facility for Adults pursuant to S.C. Code Section 44-7-2910.~~
- ~~— B. Each facility shall have a staff capable of providing program services and supervision to the participants. The minimum staff/participant ratio shall be one (1) direct care staff member to eight (8) participants. Volunteers and interns may count as staff. (H)~~
- ~~— C. There shall be accurate and current information maintained regarding all staff members/volunteers of the facility, to include at least address, telephone number, and personal/work/training background.~~
- ~~— D. All staff members/direct care volunteers who have contact with participants shall have a health assessment within twelve (12) months prior to initial participant contact. The health assessment shall include tuberculin skin testing as described in Sections 807 and 808.~~
- ~~— E. All new staff members/direct care volunteers shall have documented orientation to the organization and environment of the facility, specific duties and responsibilities of staff members/direct care volunteers, and participants' needs within twenty four (24) hours of their first day on the job in the facility.~~
- ~~— F. In service training programs shall be planned and provided for all employees to ensure and maintain their understanding of their duties and responsibilities. Records shall be maintained to reflect program content and individuals attending. Documentation of all in-service training shall be signed and dated by both the individual providing the training and the individual receiving the training. A signature for the individual providing the training may be omitted for computer based training. The following training shall be provided prior to participant contact at a minimum:
 
  - ~~— 1. Fire Safety Measures;~~
  - ~~— 2. Infection Control;~~
  - ~~— 3. Participant Rights; and~~
  - ~~— 4. Confidentiality of participant information and records and the protecting of participants' rights, including prevention of abuse, neglect, and exploitation;~~~~
- ~~— G. A personnel record folder shall be maintained for each employee and for each direct care and food service volunteer. The folder shall contain a current job description that reflects the employee's~~

~~responsibilities and work assignments, and documentation indicating that job orientation, in service education, annual performance evaluations (except for volunteers), pre-employment physical and TB skin tests were performed.~~

~~— H. At least one (1) staff member who is certified with American Red Cross first aid training and CPR (or American Heart Association CPR) and capable of recognizing symptoms of distress shall be present when participants are in the facility. If the staff member is a licensed nurse, first aid training will not be required. (I)~~

## **SECTION 500. CARE OF PARTICIPANTS**

### **501. Activities and Programs**

~~— A. Activities and therapies shall be offered through individualized plans of care which set forth measurable goals or behaviorally stated objectives. These shall be designed to activate, motivate, and/or assist participants to enable them to sustain or regain functional independence. Group and individual type services shall be provided.~~

~~— B. A planned, well balanced program of activities and services shall be provided at each facility.~~

~~— C. Each facility shall provide supervision and personal care training in order to assist the participant in developing self help skills.~~

~~— D. Each facility shall make available social, group, individual, educational, recreational, and other activities such as:~~

~~— 1. Opportunities for arts and crafts;~~

~~— 2. Daily exercise by the participant;~~

~~— 3. Development of hobbies;~~

~~— 4. Assistance with community and personal referral activities;~~

~~— 5. Reading of magazines and books, television viewing, and listening to the radio;~~

~~— 6. Excursions or outings to points of interest; or~~

~~— 7. Planned indoor and outdoor recreation.~~

~~— E. A schedule of the program(s) shall be posted at all times.~~

~~— F. Rest periods shall be provided when needed or as prescribed by a physician.~~

~~— G. The emergency/sick bed ratio shall be one (1) bed per twenty (20) licensed participants or fraction thereof. The emergency/sick beds that are required shall be set up and ready for use. Roll away beds are not permitted. The facility shall include private room(s), cubicle curtains, portable partitions, or other means to insure privacy of participants when utilizing the bed(s). (II)~~

~~— H. A facility shall provide at least one chair with arms per participant, including one recliner or comfortable lounge chair per four participants, for resting or other leisure activities. (II)~~

~~— I. A facility shall provide sufficient table space for dining and crafts.~~

#### 502. Medical Needs

~~— A. A physical examination is required within sixty (60) days prior to the enrollment of any participant. The physician's report shall include recommendations regarding limitations of activities, special diet, medications (name, type, dosage and whether the individual is capable of self-administering), and other considerations to determine whether appropriate services are available. The facility shall provide dietary and other health needs. The physical and mental condition of a participant must not confine him/her to a bed. (II)~~

~~— B. In the event of a transfer of a participant from one licensed facility to another licensed facility, a new, pre-enrollment physical examination is not required if the new facility obtains a copy of the latest physical examination of the transferred participant, provided the latest physical exam occurred within the prior two (2) years.~~

~~— C. Subsequent physical examinations or periodic health screening to determine a participant's ability to continue in the program is required at least every two (2) years.~~

~~— D. The facility shall properly store and safeguard medications to prevent access by unauthorized persons. Storage areas shall be locked, and of sufficient size for clean and orderly storage. Narcotics shall be secured by double lock. Medications requiring refrigeration shall be kept in a secured refrigerator used exclusively for medications, or in a secured manner in which medications are separated from other items kept in a refrigerator (e.g., Lock Box). All refrigerators storing medications shall have accurate thermometers (within plus or minus two (2) degrees).~~

~~— E. A standard first-aid kit or equivalent first-aid supplies shall be on hand and readily accessible to include, but not limited to, the following:~~

~~— 1. Adhesive compresses;~~

~~— 2. Bandage compresses;~~

~~— 3. Plain gauze pads;~~

~~— 4. Antiseptic cleanser;~~

~~— 5. Absorbent gauze;~~

~~— 6. Triangular bandage;~~

~~— 7. Tourniquet; and~~

~~— 8. Scissors and tweezers.~~

#### 503. Participant Records

~~— A. A file shall be maintained for each participant. Each file shall contain, but not be limited to, the following information: (II)~~

- 1. A personal data sheet to include: full name, address, phone number, social security number, photo, race, religious preference, next of kin or sponsor, marital status, name of spouse, and any other appropriate information;
- 2. Pre-enrollment physician's examination (within sixty (60) days prior to enrollment) and subsequent health screenings;
- 3. A listing (to include telephone numbers) of the participant's personal physician(s) and next of kin, legal guardian or sponsor to be contacted in case of emergency or illness;
- 4. A complete record setting forth an individual plan of care and activities; this care plan shall be completed within thirty (30) days of enrollment and shall include, but not be limited to:
  - a. Initial assessment by facility staff of the participant's physical condition, capabilities, and needs;
  - b. Objectives;
  - c. Notes of observation at least quarterly (An observation note is an entry made by a direct care staff member in reference to the progress of a participant relative to the achievement of goals as indicated in the care plan. Any appropriate routine entry made on a more frequent basis will satisfy this requirement.); and
  - d. Review and/or revision as changes in participant needs occur but not less than semi-annually;
- 5. Signed agreement between the facility and participant or sponsor stating the amount of fees for listed services;
- 6. A record of incidents, accidents, emergencies and illnesses which occur while the participant is receiving day care services.
- 7. Written acknowledgement of the Statement of Rights of Adult Day Care Participants (see Section 901) signed by the participant or responsible party/sponsor.

**SECTION 500 – STAFF AND TRAINING**

**501. General. (II)**

A. Before being employed or contracted as a Staff member or Volunteer, all Direct Caregiver Staff shall undergo a criminal background check pursuant to South Carolina Code Section 44-7-2910. Staff members and Volunteers shall not have a prior conviction or have pled no contest (nolo contendere) to unlawful conduct toward a child, as defined by South Carolina Code Section 63-45-70; Abuse, Neglect, or Exploitation of a vulnerable Adult, as defined by South Carolina Code Sections 43-35-10, et seq.; or any similar criminal offense. The Facility shall maintain documentation of all criminal background checks and make them available to the Department upon request. (I)

B. The Facility shall maintain a personnel file for each Staff member and Volunteer. The Facility shall ensure the personnel file for each Staff member and Volunteer contains:

- 1. Accurate and current information to include at least address, phone number, date of hire, first day on the job, date of initial Participant contact, and personal, work, and training background; and

2. A current job description that reflects responsibilities and work assignments, job orientation, in-service education, and Health Assessment including tuberculin skin testing as described in Section 1702.

### **502. Administrator. (II)**

A. The Facility shall maintain a full-time Administrator to manage the Facility.

B. The Administrator shall have a bachelor's degree or at least two (2) years of college or technical school with at least an additional four (4) years of experience in the field of nursing, social service, sociology, psychology, or in an area closely related to health and social development for the aging.

C. The Facility shall designate in writing a Staff member to act in the absence of the Administrator.

D. The Facility shall notify the Department in writing within seventy-two (72) hours of any change in Administrator status and shall provide the Department the name of the newly appointed Administrator, the effective date of the appointment, and documentation of the newly appointed Administrator's qualifications pursuant to Section 502.B.

### **503. Staffing. (I)**

A. The Facility shall have Staff capable of providing program services and supervision to the Participants. The Facility shall maintain a Staff-to-Participant ratio of at least one (1) Direct Care Staff member or Volunteer to eight (8) Participants.

B. The Facility shall maintain documentation to ensure the Facility meets Section 503.A.

### **504. Orientation. (I)**

The Facility shall develop and execute a written orientation program to familiarize all new Staff members and Volunteers with the Facility, its policies and procedures, the Staff members' job responsibilities, and needs of the Participants. The Facility shall maintain documentation of orientation that includes orientation source and duration and shall be signed and dated by the orientation trainer and trainee. The Facility shall ensure all orientation is completed within twenty-four (24) hours of the first day on the job in the Facility.

### **505. Training. (I)**

The Facility shall require all Staff members and Volunteers to complete the necessary training to perform their duties and responsibilities. The Facility shall ensure documentation of all training is signed and dated by both the individual providing the training and the individual receiving the training. A signature for the individual providing the training may be omitted for computer-based training. The following training shall be provided to all Staff and Volunteers prior to Participant contact and at a frequency determined by the Facility, but at least Annually unless otherwise specified by certificate, e.g., cardiopulmonary resuscitation (CPR):

A. Fire Safety Measures;

B. Infection Control;

C. Participant Rights including prevention of Abuse, Neglect, and Exploitation;

D. Confidentiality of Participant information and records;

E. Depending on the type of Participants, care of persons specific to the physical and/or mental condition being cared for in the Facility including dementia, cognitive disability, mental illness, or aggressive, violent, and/or inappropriate behavioral symptoms, and etc., to include communication techniques (cueing and mirroring), understanding and coping with behaviors, safety, activities, etc.; and

F. At least one (1) Staff member who has certification of American Red Cross first-aid training, cardiopulmonary resuscitation (CPR) certification, and is capable of recognizing symptoms of distress shall be present when Participants are in the Facility. If the Staff member is a licensed nurse, first-aid training shall not be required. (I)

### **506. Health Assessment. (I)**

A. All Staff members and Volunteers who have contact with Participants shall have a Health Assessment within twelve (12) months prior to initial Participant contact. The Health Assessment shall include tuberculin skin testing as described in Section 1702.

B. For Staff members working at multiple Facilities operated by the same Licensee, copies of the documented Health Assessment shall be accessible at each Facility.

### **~~SECTION 600. FOOD SERVICE (H)~~**

#### ~~601. General~~

~~—A. All facilities that prepare food on-site shall be approved by the Department and regulated, inspected, and permitted pursuant to R.61-25.~~

~~—B. When meals are catered to a facility, such meals shall be obtained from a food service establishment graded by the Department, pursuant to R.61-25, and there shall be a written executed contract with the food service establishment.~~

~~—C. The transportation of all food from a permitted food service establishment to another location for service shall meet the requirements of R.61-25 for storage, display, and general protection against contamination.~~

~~—D. The use of home-canned foods is not allowed.~~

~~—E. All cleaning supplies, detergents and other potentially poisonous items shall be stored away from food items.~~

~~—F. At least one (1) handwash sink equipped with hot and cold, sanitary soap dispenser, and towel dispenser or electric hand dryer shall be present in the food preparation areas.~~

~~—G. If a dishwashing machine is used, it shall meet the standards for sanitization required by the Department. Domestic (home-type) dishwashing machines shall be equipped with a self-contained water heating element or otherwise be provided an inlet water temperature of 160 degrees Fahrenheit.~~

#### ~~602. Meals and Special Diets~~

~~—A. A facility shall provide at least one (1) meal for participants who receive adult day care services for four (4) hours or more per day, unless otherwise directed by a physician in writing. A facility shall provide~~

at least two (2) meals for each participant receiving care for ten (10) or more hours per day unless otherwise directed by a physician.

~~— B. All facilities shall provide dietary services to meet the daily dietary needs of participants in accordance with written dietary policies and procedures. Each meal shall provide at least one third of the U.S.D.A. recommended dietary requirement and other standards established by the Department. Facilities shall post weekly menus where they may be observed by participants. Snacks are permitted but not in lieu of full meals.~~

~~— C. Facilities with participants in need of special or therapeutic diets shall employ or contract with (either directly or through a caterer) a dietitian or qualified food service supervisor to provide appropriate consultations for such diets. A qualified food service supervisor is a person who:~~

~~— 1. Is a graduate of a dietetic technician or dietetic assistant training program, (correspondence or classroom), approved by the American Dietetic Association; or~~

~~— 2. Is a graduate of a State approved course that provided ninety (90) or more hours of classroom instruction in food service supervision, and has experience as a supervisor in a health care institution with consultation from a dietitian; or~~

~~— 3. Has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (1) or (2) above.~~

~~— D. Special diets shall be prescribed, dated and signed by the physician.~~

## **SECTION 600 – REPORTING**

### **601. Incidents. (II)**

A. The Facility shall document every Incident and include an Incident review, Investigation, and evaluation as well as corrective action taken, if any. The Facility shall retain all documented Incidents reported pursuant to this section for six (6) years after the Participant involved is last Discharged. The Facility shall keep the documents onsite and readily available at the Facility for the first year following Participant Discharge.

B. The Facility shall report the following types of Incidents to the Department, Responsible Party, Sponsor, and/or emergency contact for each affected Participant within twenty-four (24) hours of the Incident. The Facility shall notify the Department via the Department’s electronic reporting system or as otherwise determined by the Department. Incidents requiring reporting include:

1. Confirmed or suspected crimes against Participants;

2. Confirmed or suspected Abuse, Neglect, or Exploitation;

3. Hospitalization or death resulting from an Incident;

4. Elopement;

5. Medication errors;

6. Burns, hematoma, or laceration requiring medical attention;

7. Bone or joint fracture;

8. Other injuries requiring medical attention or hospitalization;

9. Attempted suicide; and

10. Fire.

C. The Facility shall submit a separate written investigation report within five (5) calendar days of every Incident required to be reported to the Department pursuant to Section 601.B via the Department's electronic reporting system or as otherwise determined by the Department. Reports submitted to the Department shall contain only: Facility name, License number, type of Incident, the date the Incident occurred, number of Participants directly injured or affected, Participant medical record identification number, Participant age and sex, number of Staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of Incident, internal investigation results if cause unknown, a brief description of the Incident including location where occurred, and treatment of injuries.

### **602. Closure and Zero Census.**

A. The Facility shall notify the Department and Participants, or Participants' representatives when appropriate, in writing prior to permanent closure of the Facility and shall provide the effective closure date. The Facility shall return its License to the Department on the date of closure.

B. The Facility shall notify the Department in writing within fifteen (15) calendar days prior to a temporary closure, or within forty-eight (48) hours if the temporary closure is due to an emergency. The notification shall include the reason for the temporary closure, records maintenance plan, anticipated reopening date, and documentation of Participant notification. Facilities that are temporarily closed longer than one (1) year shall reapply for licensure with the Department and shall be subject to all applicable licensing and construction requirements for new Facilities.

C. The Facility shall notify the Department in writing if there have been no Participants in the Facility for any reason for ninety (90) calendar days or more no later than one hundred (100) calendar days after the last Participant is Discharged. Facilities that are zero census longer than one (1) year shall reapply for licensure with the Department and shall be subject to all applicable licensing and construction requirements for new Facilities.

D. Prior to closing the Facility for any reason, the Licensee shall arrange for preservation of records to ensure compliance with this regulation. The Facility shall notify the Department in writing within ten (10) calendar days of closure of the provisions for records maintenance describing the arrangements and the location of the records.

### **603. Reportable Diseases and Infections. (I)**

The Facility shall immediately report animal bites, diseases, and infections in accordance with Regulation 61-20, Communicable Diseases, to the Department's local health department and Bureau of Facilities Oversight. The Facility shall maintain documentation of reported animal bites, diseases, and infections in the Participant records.

## **SECTION 700. FUNCTIONAL SAFETY**



#### 701. Maintenance

~~— A facility's structure, its component parts, and all equipment such as elevators, furnaces and emergency lights, shall be kept in good repair and operating condition. Areas used by participants shall be maintained in good repair and kept free of hazards, to include obstructions which may block exits in case of emergency. (H)~~

#### 702. Emergency/Disaster Preparedness

~~— A. The facility shall have a written emergency plan and have a floor diagram posted for evacuation of participants, staff, and visitors in case of fire or other emergency. (I)~~

~~— B. At least one (1) fire drill shall be held every three (3) months to familiarize all employees with fire safety procedures. Records of the drills and attendees shall be maintained. Upon identification of procedural problems with regard to the drills, records shall show what corrective action has been taken. (I)~~

~~— C. The facility shall post emergency call data in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members/volunteers to be notified in case of emergency.~~

#### 703. Accidents/Incidents (H)

~~— A. The facility shall report each accident and/or incident resulting in unexpected death or serious injury to the next of kin or responsible party for each affected individual at the earliest practicable hour, not exceeding twenty four (24) hours. The facility shall notify the Department immediately, not to exceed twenty four (24) hours, via telephone, email or facsimile. The facility shall submit a report of the licensee's investigation of the accident and/or incident to the Department within five (5) days. Accidents and/or incidents requiring reporting include, but are not limited to,;~~

- ~~— 1. Abuse, Neglect or Exploitation (Confirmed);~~
- ~~— 2. Abuse, Neglect or Exploitation (Suspected);~~
- ~~— 3. Adverse or severe medication reaction;~~
- ~~— 4. Criminal event against participant;~~
- ~~— 5. Death;~~
- ~~— 6. Elopement;~~
- ~~— 7. Fire;~~
- ~~— 8. Fracture of bone or joint;~~
- ~~— 9. Hospitalization as a result of accident/incident;~~
- ~~— 10. Medication Error resulting in hospitalization or death;~~
- ~~— 11. Burns, hematoma, laceration requiring medical attention; and~~

— 12. Attempted Suicide.

— B. Reports submitted to the Department shall contain only: facility name, license number, type of accident/incident, date accident/incident occurred, number of participants directly injured or affected, participant record number or last four (4) digits of Social Security Number, participant age and sex, number of staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of accident/incident, internal investigation results if cause unknown, a brief description of the accident/incident including location where occurred, and treatment of injuries. The report retained by the facility, in addition to the minimum reported to the Department, shall contain: names of participant(s), staff, and/or visitor(s), the injuries and treatment associated with each Participant, staff, and/or visitor. Records of all accidents and incidents shall be retained by the facility for six (6) years after the participant stops receiving services.

## **SECTION 700 – PARTICIPANT RECORDS**

### **701. Content. (II)**

A. The Facility shall maintain an organized record for each Participant. The Facility shall ensure all entries in the Participant record are permanently written, typed, or electronic media, authenticated by the author, and dated. The Facility shall have policies and procedures to prohibit access to Participant records that are generated by electronic or optical means.

B. The Facility shall maintain current Participant records for each Participant that contain:

1. A personal data sheet to include: full name, address, phone number, photo, race, religious preference, marital status, name of spouse, Responsible Party, Sponsor, emergency contact, and Participant’s personal physician(s);

2. An enrollment Physical Examination and subsequent Physical Examinations;

3. Progress Notes. The Facility shall document, at least quarterly, progress notes by Direct Care Staff for each Participant. The Facility shall ensure that all progress notes include the progress of each Participant relative to the achievement of goals as indicated in the Individual Plan of Care;

4. A signed written agreement between the Participant and/or the Participant’s Sponsor or Responsible Party and the Facility. The Facility shall revise the agreement upon any changes and document the signatures of the Participant, Sponsor, or Responsible Party. The Facility shall ensure the written agreement includes at least the following:

a. An explanation of the specific care, services, and activities provided by the Facility; and

b. Disclosure of fees for all care, services, and activities provided;

5. A record of Incidents, emergencies, and illnesses that occur while the Participant is receiving Adult Day Care Services; and

6. A written acknowledgement of the Statement of Rights of Adult Day Care Participants signed by the Participant, or Responsible Party or Sponsor.

### **702. Enrollment Assessment. (II)**

The Facility shall ensure a Staff member conducts and documents a written initial enrollment assessment of the Participant to include the Participant's physical condition, capabilities, preferences, and needs. The Facility shall ensure the Staff member conducts the initial enrollment assessment within a time period determined by the Facility that is evidenced and documented by the signature and date of the Staff member.

### **703. Individual Plan of Care. (II)**

A. The Facility shall complete the Individual Plan of Care for each Participant within thirty (30) calendar days of the Participant's enrollment and shall review and/or revise as changes in Participant's needs occur but not less than semi-annually with the Participant, Administrator or designee, and/or the Sponsor or Responsible Party as evidenced by their signatures and date. The Facility shall provide the Responsible Party and or Sponsor a copy of the Individual Plan of Care upon request.

B. The Facility shall ensure the Individual Plan of Care:

1. Describes the needs of the Participant including the activities of daily living for which the Participant requires assistance, i.e., what assistance, how much, who will provide the assistance, how often, and when;

2. Delineates the responsibilities of the Facility in meeting the needs of the Participant including provisions to monitor the care and the effectiveness of the Facility in meeting those needs; and

3. Includes specific goal-related objectives based on the needs and preferences of the Participant as identified during the assessment, activities, access to the community, other special needs, and the methods for achieving objectives and meeting needs in measurable terms with expected achievement dates.

### **704. Record Maintenance.**

A. The Licensee shall provide accommodations, space, supplies, and equipment for the protection, storage, and maintenance of Participant records in an organized manner.

B. The Participant record is confidential and shall be made available only to individuals authorized by the Facility and in accordance with local, state, and federal laws, codes, and regulations. (II)

C. Records generated by organizations or individuals contracted by the Facility for care or services shall be maintained by the Facility that has enrolled the Participants.

D. Upon Discharge of a Participant, the record shall be completed within thirty (30) calendar days, and filed in an inactive or closed file maintained by the Licensee.

E. Participants records shall be maintained for at least six (6) years following the Discharge of the Participant. Unless otherwise indicated, other regulation-required documents shall be retained at least twelve (12) months or since the last Department general Inspection, whichever is the longer period.

F. Current Participant records are the property of the Facility, shall be maintained at the Facility, and shall not be removed from the Facility without court order.

## **SECTION 800. INFECTION CONTROL AND SANITATION**

### **801. General**

~~—The facility shall provide adequate space, equipment, and staff in the facility to assure protection of all participants and staff against cross infection. (II)~~

#### 802. Linen and Laundry (II)

~~—A. An adequate supply of clean linen or disposable materials shall be maintained for the sick bed(s). Each bed shall be made up with at least one (1) clean linen change (bottom and top sheets and pillowcase) and a bedspread or coverlet.~~

~~—B. Facilities shall provide clean mattress covers, in addition to linen.~~

~~—C. Liquid or powder soap dispensers and sanitary paper towels shall be available at each handwash lavatory. Alcohol-based waterless hand sanitizers shall not be used in lieu of liquid or powder soap.~~

#### 803. Housekeeping (II)

~~—A. A facility shall be kept clean and free from odors. Accumulated waste material must be removed daily or more often if necessary. There must be frequent cleaning of floors, walls, ceilings, woodwork, and windows. The premises must be kept free from rodent and insect infestation. Pesticide spraying shall be conducted when participants are not present. Bath and toilet facilities must be maintained in a clean and sanitary condition at all times.~~

~~—B. Cleaning materials and supplies shall be stored in a safe manner. All harmful agents shall be locked in a closet or cabinet used for this purpose only.~~

~~—C. Dry sweeping and dusting of walls and floors are prohibited while participants are in the area being cleaned.~~

~~—D. Floors shall have a smooth, washable surface and shall be kept clean, in good repair, and free from hazards. If carpeting is used, it shall be cleaned regularly and maintained in good repair.~~

#### 804. Sanitation (II)

~~—A. All garbage and waste shall be collected, stored and disposed of in a manner designed to prevent the transmission of disease. Containers shall be washed and sanitized before being returned to work areas. Disposable type containers shall not be reused.~~

~~—B. Containers for garbage and refuse shall be covered and stored outside in durable, rust resistant, non-absorbent, watertight, rodent proof, easily cleanable containers placed on an approved platform to prevent overturning by animals, the entrance of flies, or the creation of a nuisance. All solid waste shall be disposed of at sufficient frequencies in a manner so as not to create a rodent, insect or other vermin problem.~~

~~—C. Containers for garbage shall be cleaned as necessary.~~

~~—D. All sewage and liquid waste shall be disposed of in a manner not to create a public health hazard and by a sanitary method approved by the Department.~~

#### 805. Outside Areas (II)

~~—All outside areas, grounds and/or adjacent buildings shall be kept free of rubbish, grass, and weeds that may serve as a fire hazard or as a haven for roaches, rodents and other pests. Measures for the control of~~

~~insects, rodents, and other vermin shall be applied to prevent harborage, breeding, and infestation of the premises. All stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice, snow and other impediments.~~

#### ~~806. Pets~~

~~—A. If the facility chooses to permit pets, healthy animals that are free of fleas, ticks, and intestinal parasites and have been screened by a veterinarian prior to participant contact, have received required inoculations, if applicable, and that present no apparent threat to the health, safety, and well-being of the participants, may be permitted in the facility, provided they are sufficiently fed and cared for and that both the pets and their housing are kept clean.~~

~~—B. Pets shall not be allowed near participants who have allergic sensitivities to pets, or for other reasons such as participants who do not wish to have pets near them.~~

~~—C. Pets shall not be allowed in the kitchen area. Pets shall be permitted in participant dining areas only during times when food is not being served. If the dining area is adjacent to a food preparation or storage area, those areas shall be effectively separated by walls and closed doors while pets are present.~~

#### ~~807. Tuberculosis Risk Assessment (I)~~

~~—A. All facilities shall conduct an annual tuberculosis risk assessment in accordance with CDC guidelines to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.~~

~~—B. The risk classification, *i.e.*, low risk, medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff and participants and the frequency of screening. A risk classification shall be determined for the entire facility. In certain settings, *e.g.*, healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, participant population, job type, or location within the setting may have separate risk classifications.~~

#### ~~808. Staff Tuberculosis Screening (I)~~

~~—A. Tuberculosis Status. Prior to date of hire or initial participant contact, the tuberculosis status of direct care staff shall be determined in the following manner in accordance with the applicable risk classification:~~

~~—B. Low Risk:~~

~~—1. Baseline two-step Tuberculin Skin Test (TST) or a single Blood Assay for *Mycobacterium tuberculosis* (BAMT): All staff (within three (3) months prior to contact with participants) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.~~

~~—2. Periodic TST or BAMT is not required.~~

~~—3. Post-exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified.~~

~~— 4. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to *M. tuberculosis* ended.~~

~~— C. Medium Risk:~~

~~— 1. Baseline two-step TST or a single BAMT: All staff (within three (3) months prior to contact with participants) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.~~

~~— 2. Periodic testing (with TST or BAMT): Annually, of all staff who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff about symptoms of TB disease (including the staff and/or direct care volunteers responses), documenting the questioning of the staff about the presence of symptoms of TB disease, and instructing the staff to report any such symptoms immediately to the administrator or director of nursing. Treatment for latent TB infection (LTBI) shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.~~

~~— 3. Post exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to *M. tuberculosis* ended.~~

~~— D. Baseline Positive or Newly Positive Test Result:~~

~~— 1. Staff with a baseline positive or newly positive test result for *M. tuberculosis* infection (*i.e.*, TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, *e.g.*, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). These staff members will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program).~~

~~— 2. Staff who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician or legally authorized healthcare provider, and permitted to return to work only with approval by the Department TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician or legally authorized healthcare provider.~~

**SECTION 800 – ENROLLMENT AND RETENTION. (I)**

A. The Facility shall only enroll Adult Participants.

B. The Facility shall not enroll or retain a Participant who is bed-confined.

C. The Facility shall not retain Participants beyond fourteen (14) calendar days if the Facility is incapable of providing the necessary care and/or services needed by the Participant, the Participant has a medical condition or behavior which is unsafe for continued retention in the Facility, and in accordance with Facility policy and procedures.

## **SECTION 900. STATEMENT OF RIGHTS OF ADULT DAY CARE PARTICIPANTS**

### **901. Statement of Rights of Adult Day Care Participants**

~~—A. Each participant must be accorded the following rights: (H)~~

~~—1. The right to be treated as an adult, with consideration, respect, and dignity, including privacy in treatment and in care for personal needs.~~

~~—2. The right to participate in a program of services and activities designed to encourage independence, learning, growth, and awareness of constructive ways to develop one's interests and talents.~~

~~—3. The right to self-determination within the day care setting, including the opportunity to:~~

~~— a. Participate in developing one's plan for services and any changes therein.~~

~~— b. Decide whether or not to participate in any given activity.~~

~~— c. Be involved to the extent possible in program planning and operation.~~

~~— d. Refuse treatment, if applicable, and be informed of the consequences of such refusal.~~

~~— e. End participation in the adult day care center at any time.~~

~~—4. The right to be cared about in an atmosphere of sincere interest and concern in which needed support and services are provided.~~

~~—5. The right to a safe, secure and clean environment.~~

~~—6. The right to confidentiality and the requirement for written consent for release of information to persons not authorized under law to receive it.~~

~~—7. The right to voice grievances without discrimination or reprisal with respect to care or treatment, if applicable, that is (or is not) provided.~~

~~—8. The right to be fully informed, as evidenced by the participant's written acknowledgment of these rights, of all rules and regulations regarding participant conduct and responsibilities.~~

~~—9. The right to be free from harm, including isolation, excessive medication, if applicable, abuse, or neglect.~~

~~—10. The right to be fully informed, at the time of acceptance into the program, of services and activities available and related charges.~~

~~—11. The right to communicate with others and be understood by them to the extent of the participant's capability.~~

~~—B. The Statement of Rights of Adult Day Care Participants shall provide a grievance and complaint procedure to be exercised on behalf of the participants to enforce the Statement of Rights of Adult Day Care Participants that includes the Department's email address and telephone number.~~

~~— C. The Statement of Rights of Adult Day Care Participants shall be posted in a conspicuous place in the facility.~~

## **SECTION 900 – PARTICIPANT CARE AND SERVICES**

### **901. Activities and Programs.**

A. The Facility shall offer a regular and ongoing program of varied, meaningful activities designed to suit the interests and physical and cognitive capabilities of the Participants who choose to participate in activities. The Facility shall provide activities that offer intellectual and physical stimulation; promote or enhance physical, mental, and/or emotional health; are age-appropriate; and are based on input from the Participants and/or Responsible Party, as well as information obtained in the initial enrollment assessment. These activities shall include appropriate group activities and also activities for individuals with particular interests and needs.

B. The Facility shall provide supervision and personal care training in order to assist the Participant in developing self-help skills.

C. The Facility shall make social, group, individual, educational, recreational, and other activities available.

D. The Facility shall post the current month's schedule in order for Participants to be made aware of activities offered. This schedule shall include activities, dates, times, and locations. Participants may choose activities and schedules consistent with their interests and physical, mental, and psychosocial well-being. If a Participant is unable to choose for himself or herself, Staff members and Volunteers shall encourage participation and assist when necessary.

### **902. Daily Census. (II)**

The Facility shall maintain an accurate daily census of Participants. The Facility shall maintain records of daily attendance for at least twelve (12) months and make the records available to the Department.

## **SECTION 1000. DESIGN AND CONSTRUCTION**

### **1001. General (II)**

~~— A. A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each participant.~~

~~— B. Rooms shall be provided to accommodate a variety of programs and participants served. At a minimum, the facility shall provide one (1) group activity room and a room for resting purposes to accommodate the appropriate licensed participants. The facility shall provide adequate storage space for supplies and personal belongings.~~

~~— C. A minimum of fifty (50) square feet of usable activity space, exclusive of hallways, storage space, kitchen, toilet and resting area(s), office and other similar space, shall be provided for each participant. However, when the adult day care program is combined with a similar program, a minimum of twenty-five (25) feet of usable activity space in one (1) group activity room is permissible, provided that this area is for the exclusive use of the adult day care participants and other recreational and craft areas are available.~~



~~— D. Only first floor occupancy shall be permitted except where elevators are provided or if only non-participant areas are located on the above floor(s), e.g., storage areas, staff offices, lounges, etc.~~

~~— E. Every facility shall be accessible to participants with disabilities to include all participant areas and restrooms.~~

~~— F. The entrance to the building shall be at grade level, be sheltered from the weather and accommodate wheelchairs.~~

~~— G. There shall be at least two (2) exits remote from each other to exit the building or space.~~

#### ~~1002. Applicable Code (II)~~

~~— A. New facility design and construction shall comply with codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal. No facility shall be licensed unless the Department has received in writing that responsible local officials (zoning and building) have approved the facility for code compliance.~~

~~— B. Unless specifically required otherwise by the Department, existing facilities shall remain in compliance with the construction codes and construction regulations applicable at the time its license was issued.~~

~~— C. Any facility that closes, has its license revoked, or surrenders its license and applies for re-licensure at the same site, shall be considered a new building and shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for re-licensing.~~

#### ~~1003. Submission of Plans and Specifications~~

~~— A. Plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina. Unless directed otherwise by the Department, submit plans at the schematic, design development, and final stages. All plans shall be drawn to scale with the title, stage of submission and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction the owner shall employ a registered architect and/or engineer for observation. Upon approval of the Department, construction administration may be performed by an entity other than the architect. The Department shall conduct periodic inspections throughout each project.~~

~~— B. Plans and specifications shall be submitted to the Department for new construction and for any projects that has an effect on:~~

~~— 1. The function of a space;~~

~~— 2. The accessibility to or of an area;~~

~~— 3. The structural integrity of the facility;~~

~~— 4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);~~

~~— 5. Doors;~~

- ~~— 6. Walls;~~
- ~~— 7. Ceiling system assemblies;~~
- ~~— 8. Exit corridors;~~
- ~~— 9. Life safety systems; or~~
- ~~— 10. Increases the occupant load or licensed capacity of the facility.~~

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

~~— D. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications kept on file at the facility and made available to the Department.~~

~~— E. Any construction work which violates codes or standards shall be brought into compliance.~~

~~1004. Construction Inspections~~

~~— All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by Department.~~

**SECTION 1000 – PARTICIPANT RIGHTS**

**1001. Statement of Rights of Adult Day Care Participants. (II)**

A. Each Participant must be accorded the following rights:

1. The right to be treated as an Adult, with consideration, respect, and dignity, including privacy in treatment and in care for personal needs;

2. The right to participate in a program of services and activities designed to encourage independence, learning, growth, and awareness of constructive ways to develop one’s interests and talents;

3. The right to self-determination within the day care setting, including the opportunity to:

a. Participate in developing one’s plan for services and any changes therein;

b. Decide whether or not to participate in any given activity;

c. Be involved to the extent possible in program planning and operation;

d. Refuse treatment, if applicable, and be informed of the consequences of such refusal; and

e. End participation in the Facility any time;

4. The right to be cared about in an atmosphere of sincere interest and concern in which needed support and services are provided;

5. The right to a safe, secure, and clean environment;
6. The right to confidentiality and the requirement for written consent for release of information to persons not authorized under law to receive it;
7. The right to voice grievances without discrimination or reprisal with respect to care or treatment, if applicable, that is or is not provided;
8. The right to be fully informed, as evidenced by the Participant's written acknowledgment of these rights, of all rules and regulations regarding Participant conduct and responsibilities;
9. The right to be free from harm, Exploitation, Abuse, or Neglect; (I)
10. The right to be fully informed, at the time of enrollment, of services and activities available and related charges; and
11. The right to communicate with others and be understood by them to the extent of the Participant's capability.

B. The Facility shall provide grievance and complaint procedures for Participants, Sponsors, and Responsible Parties on the Statement of Rights of Adult Day Care Participants to be exercised on behalf of the Participants to enforce the Statement of Rights of Adult Day Care Participants that includes the Department's email address and telephone number.

C. The Facility shall post the Statement of Rights of Adult Day Care Participants in a conspicuous place in the Facility.

### **1002. Discharge. (II)**

The Facility shall notify the Responsible Party and/or Sponsor in writing immediately upon the determination to Discharge the Participant.

## **SECTION 1100. FIRE PROTECTION EQUIPMENT AND SYSTEMS**

### **1101. Alarms**

~~— A. facility shall include a partial, manual, automatic, supervised fire alarm system. The system shall be arranged to transmit an alarm automatically to a third party by an approved method. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.~~

~~— B. All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.~~

~~— C. A facility shall include a sprinkler system.~~

### **1102. Gases (I)**

~~— Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. "No Smoking" signs shall be posted conspicuously inside the facility and on oxygen cylinders. All cylinders shall be properly stored and secured in place.~~

## **SECTION 1100 – PARTICIPANT PHYSICAL EXAMINATION. (I)**

A. The Facility shall ensure a physician or other Authorized Healthcare Provider conducts a Physical Examination of the Participant within sixty (60) calendar days prior to enrollment. The Facility shall ensure the Physical Examination includes recommendations regarding limitations of activities, special diet, medications (name, type, dosage, and whether the individual is capable of self-administering), and other considerations to determine whether appropriate services are available. The Facility shall ensure the Participant receives Physical Examinations at least every two (2) years upon enrollment.

B. When a Participant is transferred from one Facility to another Facility, the transferring Facility shall forward a transfer summary to the receiving Facility at the time of transfer or immediately after the transfer. The transferring Facility shall include the following in the transfer summary at a minimum:

1. Copies of the most recent Physical Examination, the two-step tuberculosis test or Blood Assay for Mycobacterium tuberculosis, and the Individual Plan of Care.

2. The date sent to the receiving Facility and the signature of the transferring Facility Staff member.

## **SECTION 1200. PREVENTIVE MAINTENANCE EQUIPMENT AND UTILITIES**

### ~~1201. General~~

~~— The facility shall keep the structure, its component parts, facilities and all equipment in good repair and operating condition and documented. Facilities shall comply with provisions of the code officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.~~

### ~~1202. Signal System~~

~~— A. All facilities shall have a signal system consisting of a call button for each bed, bath, and toilet. A light shall be at or over each participant room door visible from the corridor. There shall be an audio-visual master station in a location continuously monitored by staff.~~

~~— B. Facilities shall have a signal system consisting of an audio-visual device that cannot be interrupted located in all utility rooms, medicine preparation rooms, lounges, storage rooms and areas where staff congregate.~~

~~— C. Activation of signal system shall be by pull cord or electronic device. Pull cord shall hang to a maximum of four (4) inches above finished floor.~~

### ~~1203. Restrooms (H)~~

~~— A. There shall be an appropriate number of restrooms in the facility to accommodate participants, staff, and visitors.~~

~~— B. Restrooms shall be accessible during all operating hours of the facility.~~

~~— C. All restrooms shall be equipped with at least one (1) toilet fixture, toilet paper installed in a holder, a handsink supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle.~~

~~— D. All toilet fixtures used by participants shall have approved grab bars securely fastened in a usable fashion.~~

~~— E. Privacy shall be provided at toilet fixtures and urinals.~~

~~— F. Bathrooms shall accommodate persons with disabilities as required by codes, whether or not any of the staff or participants are classified as disabled.~~

~~— G. All restroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.~~

~~— H. One toilet shall be provided for each fifteen (15) participants. Where separate staff and/or public toilets are not provided, employees and volunteers shall be included in the ratio.~~

#### 1204. Janitor's Closets

~~— A. The facility shall include at least one (1) lockable janitor's closet.~~

~~— B. Each janitor's closet shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies, e.g., mops.~~

#### 1205. Storage Areas

~~— A. Facilities shall have adequate general storage areas for equipment, supplies and wheelchairs.~~

~~— B. Storage buildings on the premises shall meet the requirements of the codes regarding distance from the licensed building. Storage in buildings other than on the facility premises shall be secure and accessible. An appropriate controlled environment shall be provided if necessary for storage of items requiring such an environment.~~

~~— C. Chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be safely stored in cabinets or well lighted closets/rooms.~~

#### 1206. Elevators (II)

~~— Elevators shall be inspected and tested upon installation, prior to first use, and annually thereafter by a certified elevator inspector.~~

#### 1207. Telephone Service

~~— At least one (1) land line telephone shall be available on each floor of the facility for use by participants and/or visitors for their private, discretionary use.~~

#### 1208. Location

~~— A. Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.~~

~~— B. Parking. The facility shall have a parking area to reasonably satisfy the needs of participants, staff members, and visitors.~~

~~—C. Access to firefighting equipment. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)~~

#### ~~1209. Furnishings/Equipment (I)~~

~~—A. The facility shall maintain the physical plant free of fire hazards and impediments to fire prevention.~~

~~—B. No portable electric or unvented fuel heaters shall be permitted in the facility.~~

~~—C. Wastebaskets, furniture, window dressings, portable partitions, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame resistant, or treated or maintained flame resistant in accordance with the applicable codes.~~

~~—D. Wall finishes shall be washable, and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.~~

~~—E. Wall bases in areas which are frequently subject to wet cleaning methods shall be tightly sealed and constructed without voids that can harbor insects.~~

~~—F. Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.~~

~~—G. Interior finish materials shall comply with the flame spread requirements.~~

~~—H. Floors shall not have cracks or be of uneven elevation and shall be of non-skid surfaces to prevent falls.~~

#### ~~1210. Water Requirements~~

~~—A. The facility shall establish written policies and procedures to prevent waterborne microbial contamination within the water distribution system.~~

~~—B. The facility shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions (e.g., gloves) in accordance with established guidelines.~~

~~—C. The facility shall eliminate contaminated water or fluid from environmental reservoirs (e.g., in equipment or solutions) wherever possible.~~

~~—D. The facility shall not place decorative fountains and fish tanks in participant areas. If decorative fountains are used in separate public areas, the facility shall ensure they are disinfected in accordance with manufacturer's instructions and safely maintained.~~

~~—E. The facility plumbing fixtures that require hot water and are accessible to participants shall be supplied with water which is thermostatically controlled to a temperature of at least 100 degrees F. (37.8 degrees C) and not exceeding 125 degrees F. (51.7 degrees C.) at the fixture.~~

~~—F. The facility shall have a written plan to respond to disruptions in water supply. The plan must include a contingency plan to estimate water demands for the entire facility in advance of significant water disruptions (i.e., those expected to result in extensive and heavy microbial or chemical contamination of the potable water), sewage intrusion, or flooding.~~

~~—G. When a significant water disruption or an emergency occurs, the facility shall:~~

~~—1. Adhere to any advisory to boil water issued by the municipal water utility;~~

~~—2. Alert participants, families, employees, volunteers, students and visitors not to consume water from drinking fountains, ice, or drinks made from municipal tap water while the advisory is in effect, unless the water has been disinfected;~~

~~—3. After the advisory is lifted, run faucets and drinking fountains at full flow for greater than five (5) minutes or use high temperature water flushing or chlorination;~~

~~—4. All ice and drinks that may have been contaminated must be disposed and storage containers cleaned; and~~

~~—5. Decontaminate the hot water system as necessary after a disruption in service or a cross connection with sewer lines has occurred.~~

~~—H. The facility shall follow appropriate recommendations to prevent cross connection and other sources of contamination of ice for human consumption.~~

~~—I. The facility shall maintain and implement policies and procedures addressing the management of failure of waste water systems.~~

~~—J. Participant and staff handwashing lavatories and showers, if any, shall include hot and cold water at all times.~~

~~—K. If a non community water supply is used, approval from the Department shall be obtained to insure safe location, construction, proper maintenance and operation of the system.~~

~~—L. The use of “common drinking cups” is prohibited. Disposable cups, if used, shall be stored properly to prevent contamination.~~

~~—M. If a swimming pool is part of the facility, it shall be designed, constructed, and maintained pursuant to the Department’s regulations governing swimming pools, Regulation 61-51.~~

#### 1211. Panelboards (II)

~~—The directory shall be labeled to conform to the actual room designations. Clear access shall be maintained to the panel.~~

#### 1212. Lighting

~~—A. Spaces occupied by persons, machinery, equipment within buildings, approaches to buildings, and parking lots shall be lighted. (II)~~

~~—B. The facility shall have adequate artificial light to include sufficient illumination for reading, observation, and activities.~~

#### 1213. Heating, Ventilation, and Air Conditioning (HVAC) (II)

~~—A. The HVAC system shall be inspected at least once a year by a certified/licensed technician.~~

~~— B. No HVAC supply or return grill shall be installed within three (3) feet of a smoke detector. (I)~~

~~— C. Intake air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials.~~

~~— D. Each bath/restroom shall have either operable windows or approved mechanical ventilation.~~

### **SECTION 1200 – MEDICATION MANAGEMENT. (I)**

A. The Facility shall store and safeguard medications in a locked medicine preparation room, cabinet or cart. The Facility shall monitor and attend to medications at all times to prevent access by unauthorized individuals. The Facility shall not store expired or discontinued medications with current medications. The Facility shall ensure storage areas are not located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life.

B. The Facility shall store medications requiring refrigeration or freezing in a locked refrigerator or freezer as appropriate at the temperature range established by the manufacturer used exclusively for that purpose. The Facility shall not store food and drinks in the same refrigerator or freezer in which medications and biologicals are stored. The Facility shall provide each refrigerator and freezer with a thermometer accurate to plus or minus two (2) degrees Fahrenheit.

C. The Facility shall ensure that Prescription Medication is administered to the Participant in accordance with state practice acts by a licensed nurse or an Authorized Healthcare Provider. The Facility shall ensure that doses of Prescription Medication are administered to the Participant by the same licensed nurse or Authorized Healthcare Provider who prepared them for administration. (I)

D. The Facility shall maintain a standard first-aid kit, or equivalent first-aid supplies on hand, that is readily accessible to include, but not limited to, the following:

1. Absorbent compress dressings;
2. Adhesive bandages, assorted sizes;
3. Adhesive cloth tape;
4. Antibiotic ointment;
5. Antiseptic wipes;
6. Non-latex gloves;
7. Hydrocortisone ointment;
8. Gauze roll bandage; and
9. Sterile gauze pads.

### **SECTION 1300. SEVERABILITY**

1301. General



~~— In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect as if such invalid portions were not originally a part of these regulations.~~

## **SECTION 1300 – MEAL SERVICE**

### **1301. General. (II)**

A. Facilities that prepare food on-site shall be approved by the Department, and regulated, inspected, and permitted pursuant to Regulation 61-25, Retail Food Establishments.

B. The Facility shall ensure that meals that are catered to the Facility are obtained from a food service establishment graded by the Department pursuant to R.61-25, and the Facility shall have a written executed contract with the food service establishment.

C. The Facility shall ensure food served to the Participants meets the requirements of R.61-25 for temperature, storage, display, and general protection against contamination. The Facility shall not permit the use of home canned foods.

D. The Facility shall maintain at least one (1) hand sink equipped with hot and cold water, liquid soap, and an individualized method of drying hands. The Facility shall ensure handwashing sinks are equipped to provide water at a temperature of at least one hundred (100) degrees Fahrenheit through a mixing valve or combination faucet.

### **1302. Meals and Special Diets.**

A. The Facility shall provide at least one (1) meal for each Participant receiving Adult Day Care Services for four (4) hours or more per day unless otherwise directed by a physician or other Authorized Healthcare Provider in writing. The Facility shall provide at least two (2) meals for each Participant receiving Adult Day Care Services for ten (10) or more hours per day unless otherwise directed by a physician in writing.

B. The Facility shall provide dietary services to meet the daily dietary needs of Participants in accordance with written dietary policies and procedures. The Facility may permit snacks but not in lieu of full meals.

C. The Facility shall establish specific times for serving meals to Participants.

D. The Facility shall maintain suitable food and snacks and offer to Participants between meals at no additional cost to the Participants. (II)

E. The Facility shall wash and sanitize all food contact and non-food contact surfaces, equipment, and utensils in accordance with the standards required by R.61-25.

### **1303. Menus.**

The Facility shall ensure one (1) week of menus, including routine and special diets and any substitutions or changes made, is readily available and posted in one (1) or more conspicuous places in a public area.

### **1304. Ice and Drinking Water. (II)**

A. The Facility shall ensure ice is available and precautions are be taken to prevent contamination. The Facility shall store ice scoops in a sanitary manner outside of ice containers. The Facility shall ensure ice delivered to Participant areas in bulk shall be in nonporous, covered containers cleaned after each use.

B. The Facility shall ensure potable drinking water shall be available and accessible to Participants at all times.

C. The Facility shall not permit the use of “common drinking cups.” The Facility shall ensure unused disposable cups are stored to prevent contamination.

## **SECTION 1400. GENERAL**

### **1401. General**

~~—Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.~~

## **SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS**

### **1401. Disaster Preparedness. (II)**

The Facility shall develop and maintain a written plan for actions to be taken in the event of a disaster or an emergency evacuation. The Facility shall implement the plan when necessary and at the time of need. The Facility shall make the plan available upon request by Participants, Participants’ Sponsors and Responsible Parties, and the Department.

### **1402. Continuity of Essential Services. (II)**

The Facility shall maintain and implement a plan that ensures the continuation of essential Participant services for such reasons as power outage and/or water shortage or in the event of the absence from work of any portion of the work force resulting from inclement weather or other causes.

## **SECTION 1500 – FIRE PREVENTION**

### **1501. Arrangements for Fire Department Response and Protection. (I)**

A. The Facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire such as fire plan and evacuation plan.

B. Facilities located outside of a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. The Facility shall keep a copy of the current agreement on file in the Facility and shall provide a copy of the current agreement and updated agreements to the Department.

### **1502. Tests and Inspections. (I)**

The Facility shall maintain and test all fire protection and suppression systems in accordance with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility.

### **1503. Fire Response Training. (I)**

The Facility shall ensure Staff complete Annual fire response training in accordance with specific duties and responsibilities outlined in their job descriptions. The Facility shall document and maintain the training in the Staff record at the Facility.

A. The Facility shall ensure the Staff fire response training addresses, at a minimum, the following:

1. Reporting a fire;

2. Use of the fire alarm system, if applicable;

3. Location and use of fire-fighting equipment;

4. Methods of fire containment; and

5. Specific responsibilities, tasks, or duties of each individual.

B. The Facility shall maintain a written plan for fire and other emergency evacuations of Participants, Staff members, Volunteers, and visitors that includes evacuation routes and procedures, and shall post the plan in a conspicuous public area in the Facility.

C. The Facility shall train the Participants capable of self-evacuation on actions to take in the event of a fire, including if the primary escape route is blocked.

#### **1504. Fire Drills. (I)**

A. The Facility shall complete at least one (1) fire drill every month to familiarize all Staff, Volunteers, and Participants with fire safety procedures. The Facility shall maintain records of the fire drills, including date, time, description, and evaluation of the drill, and the names of Staff members, Volunteers, and Participants directly involved in responding to the drill. If fire drill requirements are mandated by statute or regulation, then the mandated statute or regulation requirements supersede the requirements of this regulation, and the Facility shall comply with the provisions of the statute or regulation.

B. The Facility shall design and conduct the fire drills to reflect the contents of the fire response training described in Section 1503.

C. The Facility shall encourage all Participants to participate in fire drills and utilize counseling, incentive programs, and specific Staff-to-Participant assignments, if appropriate.

#### **1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers. (I)**

The Facility shall provide fire-fighting equipment such as fire extinguishers, standpipes, and automatic sprinklers as required by the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility. The Facility shall ensure extinguishers are sized, located, installed, and maintained in accordance with National Fire Protection Association No. 10. The Facility shall install suitable fire extinguishers in all hazardous areas. The Facility shall comply with all state and local fire and safety provisions. (I)

### **SECTION 1600 – MAINTENANCE**

#### **1601. General Maintenance.**

The Facility shall keep all equipment and building components including, but not limited to, carpet and flooring, doors, windows, lighting fixtures, and plumbing fixtures in good repair and operating condition. The Facility shall document preventive maintenance. (II)

#### **1602. Preventive Maintenance of Emergency Equipment and Supplies (I).**

A. The Facility shall develop and implement a written preventive maintenance program for all fire alarm, electrical, mechanical, plumbing, fire protection systems and for all equipment and supplies including, but not limited to, all Participant monitoring equipment, isolated electrical systems, conductive flooring, Participant grounding systems, and medical gas systems. The Facility shall check and test the equipment at intervals ensuring proper operation and state of good repair. After repairs and alterations to any equipment or system, the Facility shall thoroughly test the equipment or system for proper operation before returning it to service. The Facility shall maintain records for each piece of emergency equipment to indicate its history of testing and maintenance.

B. The Facility shall comply with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility. (I)

### **SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT**

#### **1701. Staff Practices. (I)**

A. The Facility shall maintain and implement Staff practices that promote conditions that prevent the spread of infectious, contagious, or communicable diseases, including but not limited to standard precautions, transmission-based precautions, contact precautions, airborne precautions, and isolation techniques. The Facility shall ensure proper disposal of toxic and hazardous substances. The Facility shall ensure the preventive measures and practices are in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act of 1970; the Centers for Disease Control and Prevention; R.61-105, Infectious Waste Management; and other applicable federal, state, and local laws and regulations.

B. The Facility shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions such as gloves in accordance with established guidelines.

#### **1702. Tuberculosis Risk Assessment and Screening (I).**

A. Tuberculosis Testing. The Facility shall utilize either Tuberculin Skin Test or Blood Assay for Mycobacterium Tuberculosis for detecting Myobacterium tuberculosis infection.

B. The Facility shall conduct an Annual tuberculosis risk assessment in accordance with the Centers for Disease Control and Prevention guidelines to guide the Facility's infection control policies and procedures related to the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

#### **C. Baseline Status.**

1. The Facility shall determine the baseline status of all Staff according to current Centers for Disease Control and Prevention and Department tuberculosis guidelines.

2. Tuberculosis Screening. All Staff within three (3) months prior to Participant contact shall have a baseline two-step Tuberculin Skin Test or a single Blood Assay for Mycobacterium Tuberculosis. If a new Staff member or Volunteer has had a documented negative Tuberculin Skin Test or a Blood Assay for Mycobacterium tuberculosis result within the previous twelve (12) months, a single Tuberculin Skin Test or the single Blood Assay for Mycobacterium tuberculosis may be administered and read to serve as the baseline prior to Participant contact.

D. Post Exposure. After known exposure to a person with potentially infectious tuberculosis disease without the use of adequate personal protection, the Facility shall ensure the tuberculosis status of all Staff is determined in a manner prescribed in the current Centers for Disease Control and Prevention and Department tuberculosis guidelines.

E. Annual Tuberculosis Training. The Facility shall ensure all Staff receive Annual training regarding tuberculosis to include risk factors and signs and symptoms of tuberculosis disease. The Facility shall ensure the Annual tuberculosis training is documented in a Staff record and maintained at the Facility.

F. Serial Screening. The Facility shall follow the current Centers for Disease Control and Prevention and Department tuberculosis guidelines related to serial screening.

### **1703. Linen and Laundry. (II)**

The Facility shall maintain an adequate supply of clean linen or disposable materials for each sick bed. The Facility shall ensure each sick bed has a clean moisture-proof mattress cover and at least one (1) clean linen change including bottom and top sheets, pillowcase, and a bedspread or coverlet.

### **1704. Housekeeping. (II)**

The Facility and its grounds shall be clean, and free of vermin and offensive odors.

A. The Facility shall ensure that interior housekeeping, at a minimum, includes:

1. Cleaning each specific area of the Facility;

2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area appropriate to the area and the equipment's purpose or use;

3. Chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be in locked storage areas and inaccessible to Participants; and

4. During use of chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be in direct possession of the Staff member and monitored at all times.

B. The Facility shall ensure that exterior housekeeping, at a minimum, includes:

1. Cleaning of all exterior areas, such as, porches and ramps, and removal of safety impediments such as snow and ice;

2. Keeping Facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin; and

3. Safe storage of chemicals indicated as harmful on the product label, equipment and supplies inaccessible to Participants.

### **1705. Sanitation. (II)**

A. The Facility shall ensure garbage and waste collection, storage, and disposal prevent the transmission of disease. The Facility shall wash and sanitize garbage and waste containers prior to returning them to work areas. The Facility shall not reuse disposable garbage or waste containers.

B. The Facility shall ensure garbage and waste are covered and stored outside in durable, rust-resistant, non-absorbent, watertight, rodent-proof, easily cleanable containers placed on an approved platform to prevent overturning by animals, the entrance of flies, or the creation of a nuisance. The Facility shall dispose of all solid waste at sufficient frequencies in a manner so as not to create a rodent, insect, or other vermin problem.

C. The Facility shall dispose of all sewage and liquid waste in a manner so as not to create a public health hazard and by a sanitary method.

### **1706. Outside Areas. (II)**

The Facility shall keep all outside areas, grounds, and/or adjacent buildings free of rubbish, grass, and weeds that may serve as a fire hazard or as a haven for insects, rodents, and other vermin. The Facility shall apply measures that prevent and control insect, rodent, and other vermin harborage, breeding, and infestation on the premises. The Facility shall maintain all stairs, walkways, ramps, and porches, and keep them free from accumulations of water, ice, snow, and any other impediments.

### **1707. Pets.**

A. The Facility may permit pets that are healthy, free of fleas, ticks, and intestinal parasites, up-to-date on vaccinations, and pre-screened by a veterinarian prior to Participant contact, and present no apparent threat to the health, safety, and well-being of the Participants provided the pets are sufficiently fed and cared for and that both the pets and their housing are kept clean.

B. The Facility shall ensure pets remain separate from Participants with allergic sensitivities to pets and Participants wanting to avoid pets for any other reason.

C. The Facility shall not allow pets in the kitchen area. The Facility may permit pets in the Participant dining areas only when food is not being served to Participants. The Facility shall ensure dining areas adjacent to a food preparation or storage area are separated by walls and closed doors while pets are present.

## **SECTION 1800 – [RESERVED]**

## **SECTION 1900 – DESIGN AND CONSTRUCTION**

### **1901. General. (II)**

A. The Facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each Participant.

B. The Facility shall provide rooms to accommodate a variety of programs and Participants served. At a minimum, the Facility shall provide one (1) group activity room and one (1) resting room to accommodate

the Participants. The Facility shall ensure the resting room bed ratio is one (1) bed per thirty (30) licensed Participants or fraction thereof. The Facility shall have resting room beds set up and ready to use. The Facility shall not utilize roll-away beds as resting room beds. The Facility shall include private room, cubicle curtains, portable partitions, or other means to ensure privacy of Participants when utilizing the resting room bed. The Facility shall provide adequate storage space for supplies and personal belongings.(II)

C. The Facility shall provide a minimum of fifty (50) net square feet of usable activity space, exclusive of hallway, passageway, corridor, storage space, kitchen, toilet, resting area, office, and other similar space for each Participant. When the Facility shares space with another entity, and individuals not affiliated with the Facility have access to the building during operating hours, the Facility is allowed a minimum of twenty-five (25) net square feet of usable activity and/or dining space, provided the space has a permanent one (1) hour rated barrier, pursuant to South Carolina Building Codes, exclusive for use of the Participants. The Facility shall maintain all minimum requirements of the existing use of the building.

D. The Facility shall have only level of exit discharge floor occupancy except where elevators are provided, or if only non-Participant areas are located on the above floor(s), e.g., storage areas, Staff offices, lounges.

E. The Facility shall be accessible to Participants with disabilities to include all Participant areas and bathrooms.

F. The Facility shall ensure the entrance to the building is at the level of the exit discharge. The Facility shall have a canopy for weather protection inclusive of the vehicle drop-off location to the entrance door.

G. The Facility shall have at least two (2) exits remote from each other to exit the building or space.

### **1902. Applicable Code. (II)**

A. The new Facility design and construction shall comply with codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

B. The existing Facility shall remain in compliance with the construction codes and construction regulations applicable at the time its License was initially issued, unless specifically required otherwise by the Department.

C. A Facility that closes, has its License revoked, or surrenders its License and then applies for re-licensure at the same site shall be considered a new building and shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for licensing.

### **1903. Submission of Plans and Specifications.**

A. The Facility shall have all plans and specifications prepared by an architect and/or engineer registered in South Carolina. The Facility shall submit plans at the schematic, design development, and final stages, unless directed otherwise by the Department. The Facility plans shall be drawn to scale with the title, stage of submission, and date shown thereon. The Facility shall submit to the Department, for approval, all construction changes to the Department-approved plans. The Facility shall not commence construction work prior to receiving plan approval from the Department. The owner shall employ a registered architect and/or engineer during construction for observation. Upon approval of the Department, construction

administration may be performed by an entity other than the architect. The Department shall conduct periodic Inspections throughout each project phase.

B. The Facility shall submit plans and specifications to the Department for new construction and for any projects that have an effect on:

1. The function of a space;

2. The accessibility to or of an area;

3. The structural integrity of the Facility;

4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);

5. Doors;

6. Walls;

7. Ceiling system assemblies;

8. Exit corridors;

9. Life safety systems; or

10. Increases the occupant load or licensed capacity of the Facility.

C. The Facility shall submit all subsequent addenda, change orders, field orders, and documents altering the Department-approved review to the Department. The Facility shall be subject to the written notification requirement, review, and re-approval from the Department for any substantial deviation from the Department-approved documents.

D. The Facility shall maintain copies of documentation and certifications related to cosmetic changes utilizing paint, wall covering, floor covering, etc. that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications kept on file at the Facility and made available to the Department.

#### **1904. Construction Inspections.**

The Facility shall bring into compliance construction work that violates codes or standards. The Facility shall obtain all required permits from the locality having jurisdiction for all projects. The Facility conducting construction without proper permits shall not be inspected by the Department. (I)

### **SECTION 2000 – FIRE PROTECTION, EQUIPMENT, AND LIFE SAFETY**

#### **2001. Alarms.**

A. The Facility shall have an alarm system that includes smoke detection in all main areas and pull stations throughout the building, all supervised by the fire alarm system. The Facility shall ensure the alarm system is arranged to transmit an alarm automatically to a third party by an approved method. The Facility shall ensure the alarm system notifies by audible and visual alarm all areas and floors of the building. The



Facility shall ensure the alarm system shuts down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. The Facility shall connect all fire, smoke, heat, sprinkler flow, duct detector, and pull stations to the main fire alarm system and ensure they trigger the system when activated.

C. The Facility shall not have a single or multi-station detector or a private system.

## **2002. Gases. (I)**

The Facility shall take safety precautions against fire and other hazards when oxygen is dispensed, administered, or stored. The Facility shall post “No Smoking” signs conspicuously inside the Facility and on oxygen cylinders. The Facility shall properly store all cylinders and secure them in place.

### **SECTION 2100 – [RESERVED]**

### **SECTION 2200 – [RESERVED]**

### **SECTION 2300 – WATER SUPPLY**

A. The Facility shall ensure all hot water plumbing fixtures accessible to Participants are supplied with water that is thermostatically controlled to a temperature of at least one hundred (100) degrees Fahrenheit and not exceeding one hundred twenty-five (125) degrees Fahrenheit at the fixture.

B. The Facility shall have a written plan to respond to disruptions in water supply that includes a contingency plan to estimate water demands for the entire Facility in advance of significant water disruptions, sewage intrusion, or flooding.

C. The Facility shall prevent cross connection and other sources of contamination of ice for human consumption.

D. The Facility shall equip all hand washing lavatories utilized by Participants and Staff with hot and cold water at all times.

E. The Facility shall obtain approval from the Department prior to using a non-community water supply to ensure safe location, construction, proper maintenance, and operation of the system.

### **SECTION 2400 – ELECTRICAL**

## **2401. General. (I)**

The Facility shall have emergency electric services that provide the following:

A. Exit lights, if required by code;

B. Exit access corridor lighting;

C. Illumination of means of egress; and

D. Fire detection and alarm systems, if required by code.

#### **2402. Lighting and Electrical Services. (I)**

A. The Facility shall maintain all electrical and other equipment free of defects that could be a potential hazard to Participants or Staff. The Facility shall provide safe lighting for individual activities as required by applicable codes.

B. The Facility shall maintain all electrical installations and equipment in a safe, operable condition in accordance with the applicable codes.

C. The Facility shall maintain documentation of Annual electrical system inspections by a certified or licensed technician.

#### **2403. Ground Fault Protection. (I)**

A. The Facility shall have ground fault circuit-interrupter protection for all outside receptacles and bathrooms.

B. The Facility shall provide ground fault circuit-interrupter protection for any receptacles within six (6) feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.

#### **2404. Exit Signs. (I)**

A. The Facility shall have exits and ways to access in compliance with current code requirements and which are identified by electrically illuminated exit signs.

B. The Facility shall ensure changes in egress direction are marked with exit signs with directional arrows.

C. The Facility shall have exit signs in corridors that indicate two (2) directions of exit.

#### **2405. Emergency Electric Service. (I)**

The Facility shall have the following emergency electric services:

A. Exit lights, if required per code;

B. Exit access corridor lighting;

C. Illumination of means of egress; and

D. Fire detection and alarm system, if required per code.

#### **2406. Electrical Panelboards. (II)**

The Facility shall ensure the electrical panel directory is labeled to conform to actual room designations. The Facility shall maintain clear access to the panel.

### **SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING**

A. The Facility shall maintain documentation of Annual heating, ventilation, and air conditioning system inspections by a certified or licensed technician. (I)

B. The Facility shall maintain a temperature of between seventy-two (72) and seventy-eight (78) degrees Fahrenheit in Participant areas. (II)

C. The Facility shall not install a heating, ventilation, and air conditioning supply or return grille within three (3) feet of a smoke detector. (I)

D. The Facility shall not install heating, ventilation, and air conditioning grilles in floors. (II)

E. The Facility shall filter and maintain intake air ducts that prevent the entrance of dust, dirt, and other contaminating materials. The Facility shall ensure the system does not discharge in such a manner that would be an irritant to the Participants, Staff, or Volunteers. (II)

F. The Facility shall have either operable windows or approved mechanical ventilation in the bathrooms. (II)

## **SECTION 2600 – PHYSICAL PLANT**

### **2601. Signal System.**

A. The Facility shall have a signal system consisting of a call button for each bed, bath, and toilet. The Facility shall have a light at or over each resting room visible from the corridor. The Facility shall have an audio-visual master station in a location continuously monitored by Staff or a radio frequency wireless system per the most current version of UL 1069 standards for Emergency Call Systems.

B. The Facility shall have a signal system consisting of an audio-visual device that cannot be interrupted located in all utility rooms, medicine storage rooms, lounges, storage rooms, and areas where Staff congregate.

C. The Facility shall ensure the signal system activates by pull cord or electronic device. The Facility shall ensure the pull cord hangs to a maximum of four (4) inches above the finished floor.

### **2602. Bathrooms. (II)**

A. The Facility shall make bathrooms accessible for use during all operating hours of the Facility.

B. The Facility shall equip bathrooms with at least one (1) toilet fixture, toilet paper installed in a holder, a hand sink supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a waste receptacle.

C. The Facility shall install and maintain approved, securely fastened grab bars at each toilet fixture used by Participants.

D. The Facility shall ensure privacy for Participants at toilet fixtures and urinals.

E. The Facility shall equip each hand sink with liquid soap and an individualized method of drying hands. Alcohol-based waterless hand sanitizers shall not be used in lieu of liquid soap.

F. The Facility shall ensure the bathrooms accommodate persons with disabilities as required by codes, whether or not any of the Staff or Participants are classified as disabled.

G. The Facility shall have in each of the bathrooms floors that are entirely covered with an approved nonabsorbent covering, nonabsorbent walls, and washable surfaces to the highest level of splash.

### **2603. Janitor's Closets.**

A. The Facility shall have at least one (1) lockable janitor's closet.

B. The Facility shall ensure the janitor's closet contains a floor receptor or service sink and storage space for housekeeping equipment and supplies.

### **2604. Storage Areas.**

A. The Facility shall have general storage space for equipment, supplies, and wheelchairs.

B. The Facility shall ensure storage buildings on the premises meet the requirements of the codes regarding distance from the licensed building. The Facility shall ensure that storage in buildings other than on the Facility premises are secured and accessible. The Facility shall provide a controlled environment for storage of items requiring such an environment.

C. The Facility shall safely store chemicals indicated as harmful on the product label, cleaning materials, and supplies in cabinets or well-lighted closets and rooms, inaccessible to Participants.

### **2605. Elevators. (II)**

The Facility shall have elevators inspected and tested upon installation, prior to first use, and Annually thereafter by a certified elevator inspector. The Facility shall maintain documentation of all elevator inspections.

### **2606. Telephone Service.**

The Facility shall have at least one (1) land-line telephone available on each floor of the Facility for use by Participants and/or visitors for their private, discretionary use.

### **2607. Location.**

A. Transportation. The Facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The Facility shall have a parking area to meet the needs of Participants, Staff members, and visitors.

C. Access to firefighting equipment. The Facility shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

### **2608. Furnishings/Equipment. (I)**

A. The Facility shall maintain the physical plant free of fire hazards and impediments to fire prevention.

B. The Facility shall not use or permit the use of portable electric or unvented fuel heaters in the Facility.

C. The Facility shall ensure that wastebaskets, furniture, window dressings, portable partitions, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with the applicable codes.

D. The Facility shall have wall finishes that are washable, and, in the immediate area of plumbing fixtures, are smooth and moisture resistant.

E. The Facility shall have wall bases, in areas which are frequently subject to wet cleaning methods, tightly sealed and constructed without voids that can harbor insects, rodents, and other vermin.

F. The Facility shall have floor and wall penetrations by pipes, ducts, and conduits tightly sealed to minimize entry of rodents and insects. The Facility shall ensure joints of structural elements are similarly sealed.

G. The Facility shall have interior finish materials in compliance with all code requirements for flame spread.

H. The Facility shall have floors with no cracks or are uneven in elevation and which are of non-skid surfaces to prevent falls.

#### **2609. Lighting.**

A. The Facility shall maintain lighting in spaces occupied by persons, machinery, equipment within buildings, approaches to buildings, and parking lots. (II)

B. The Facility shall have artificial light to include sufficient illumination for reading, observation, and activities per code requirements.

#### **SECTION 2700 – SEVERABILITY**

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect as if such invalid portions were not originally a part of these regulations.

#### **SECTION 2800 – GENERAL**

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

## ATTACHMENT B

### **Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-75, Standards for Licensing Day Care Facilities for Adults. Interested persons may submit comment(s) on the proposed amendments to the Bureau of Health Facilities Licensing; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [healthregcomm@dhec.sc.gov](mailto:healthregcomm@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on March 30, 2020, the close of the draft comment period.

### **Synopsis:**

Pursuant to R.61-75, Standards for Licensing Day Care Facilities for Adults, the Department is responsible for regulating the licensure, certification, inspection, and training procedures of day care facilities for adults. The Department proposes amending R.61-75 to update and revise definitions and requirements regarding obtaining licensure, inspections, violations, training, construction, client records and care, record maintenance and retention, and licensure standards.

The Department may also include stylistic changes, which may include corrections for clarity, readability, grammar, punctuation, codification, and overall improvement of the text.

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

**ATTACHMENT C**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**R.61-75, Standards for Licensing Day Care Facilities for Adults**

**As of the March 30, 2020, close of the Notice of Drafting comment period:**

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
1. Melinda Newell, Director, Prisma Health SeniorCare PACE	General	<b>Not Adopted.</b> No other reg that offers this level of health care is required to have an AED on site. This is an additional cost for facilities that might be burdensome.
I am the Director of Prisma Health SeniorCare PACE which includes the Laurel, Lexington, Shandon and White Rock Day Health Centers as well as the center in the Upstate formerly known as Greenville Health PACE. We are proposing adding the standard that each facility have an AED on site. Each year, more than 250,000 Americans die from sudden cardiac arrest, and the AED can be an important tool in the chain of survival. Many rural areas in South Carolina don't have access to Emergency Medical Services within the recommended five minutes after arrest and AED might give them a chance of survival until EMS arrival.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
2. Sara DeVeaux, President, Mother DeVeaux Adult Day Care	General	<b>Partially Adopted.</b> The vast majority of regulation was not amended.
I am the spokesperson for the Mother DeVeaux Adult Day Care. I am in agreement with the rules and regulation for the Adult Day Care.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
3. Dottie Evans, Executive Director, Hopewell Senior Day Care Center	General	<b>Acknowledged.</b>
I am the Executive Director of Hopewell Senior Day Care Center. The adult day care program is one of the best programs in the state of South Carolina, and it is a pleasure working with South Carolina DHEC in providing the best care for seniors and persons with disabilities.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
4. Lindsey McKenzie	General	<b>Adopted.</b> 101.Z, 1100.A
Stakeholder meeting oral comment: Inquired as to the physical examination requirement of who is currently allowed to perform it. She suggested that DHEC include language that would allow for a PA and LNP to be included. She stated that the current requirement is a limitation for providers when trying to admin a potential participant. She stated that stand alone facilities do not have the same resources on site as those affiliated with other healthcare entities.		

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
5. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	101.A	<b>Not Adopted.</b> This is included in the current definition.
The definition of abuse should more clearly include instance of unnecessary or unlawful use of restraints or seclusion.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
6. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	101.C	<b>Adopted.</b> 101.D
Like the definition of Day Care Facility for Adults, this definition should include a reference to community integration as a core function of the services, like sustaining or regaining functional independence. (See also 501.A.)		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
7. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	101.C, 101.E, 501.A	<b>Partially Adopted.</b> 703 - DHEC does not regulate which therapies are to be provided, only that the facility must meet the needs of the individual participants.
The word “therapies” is used to describe a component of treatment delivered at Adult Day Health Centers. However, the regulation does not specify what therapies ADHCs are expected to offer to participants or refer to a list of therapies in another document.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
8. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	101	<b>Adopted.</b> 101.AA, 101.CC
This regulation uses both “sponsor” and “responsible party” to describe an individual’s legally responsible representative. DHEC should clarify this definition and simplify the terminology throughout the regulation.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
9. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	102.K	<b>Adopted.</b> 102.K was recodified to 800 and amended for clarity.
P&A would suggest deleting this sentence. It is unclear in both meaning and to which other section the sentence refers.		



<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
10. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	302	<b>Adopted.</b> 1001.A.9
DHEC should specify which classification would cover instances of past abuse or neglect discovered through an investigation. P&A would suggest that past instances of abuse or neglect should be cited under Class I if the past harm resulted in death or bodily injury, but also due to the imminent danger of abuse or neglect reoccurring.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
11. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	401.A	<b>Adopted.</b> <b>703.B</b>
DHEC should require facilities to maintain policies ensuring participants have adequate access to city involvement.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
12. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	404.B	<b>Partially Adopted.</b> The regulation does not prevent greater staff to participant ratio if the needs of the participants dictates it.
DHEC should clarify that a ratio of 1 staff to 8 participants cannot be viewed as a fixed staff ratio but rather should be dictated by the individual needs of participants.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
13. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	404.E, 404.F	<b>Adopted.</b> 505.A.3
DHEC should expand required training for staff of ADHCs, including specifically required training, including but not limited to: the prevention of abuse, neglect, and exploitation; positive behavioral intervention; individual plans of care; etc.		

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
14. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	501.A, 503.A	<b>Adopted.</b> 703.B,901.A - Although the term person-centered planning is not a term used in the regulation, the department has built in person-centered planning methodology in the individual plan of care and activities. 703.A - Care Plans shall be provided upon request.
DHEC should state that the individual plan of care and activities must be based on a person-centered planning model. Additionally, DHEC should mandate that ADHCs provide a copy of the plan to the participant and/or his guardian or sponsor. The individual plan should also include specific plans as to how to ensure the participant has access to the community.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
15. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	703.A	<b>Adopted.</b> 601.B
DHEC should include “sponsor” as a party to be notified in the case of an accident and/or incident, or clarify the definition for “sponsor” as recommended above.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
16. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	901.A.9	<b>Adopted.</b> 1001.A.9
DHEC should clarify the wording of the ninth right, because it is unclear what “if applicable” refers to.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
17. Anna Maria Conner, Attorney, Protection and Independence Team Leader and Attorney, Protection and Advocacy for People with Disabilities, Inc.	1202	<b>Adopted.</b> Clarified in 2601.A
DHEC should clarify this section to reflect the ADHC situation (i.e., deleting references to “participant rooms”), including signal systems for mandated sick beds pursuant to 501.G.		

SUMMARY SHEET  
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

August 13, 2020

(X) ACTION/DECISION

( ) INFORMATION

**I. TITLE:** Request for a nine-month extension by the Board for Certificate of Need (CON) SC-17-80 issued to KershawHealth Ambulatory Surgery Center, LLC (“KershawHealth”) for construction of an ambulatory surgery center with three operating rooms.

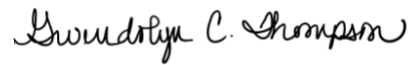
**II. SUBJECT:** KershawHealth requests Board approval for extension of CON SC-17-80.

**III. FACTS:** CON SC-17-80 was issued to KershawHealth on December 13, 2017 for the referenced project. The original CON had an expiration date of December 13, 2018. KershawHealth requested a first staff extension of the CON on November 12, 2018, which was more than 30 days prior to its expiration. KershawHealth received CON SC-17-80-EXT-1 on December 13, 2018, and it was valid until September 13, 2019, for a period of nine months from the original expiration of the CON. KershawHealth requested a second staff extension of the CON on August 13, 2019, which was 30 days prior to its expiration. KershawHealth received CON SC-17-80-EXT-2 on September 13, 2019, and it was due to expire on June 13, 2020. In accordance with R. 61-15, *Certification of Need for Health Facilities and Services*, Section 601, KershawHealth submitted a third staff extension request to the Department on March 13, 2020, which is more than 90 days prior to its expiration.

**IV. ANALYSIS:** Department staff have reviewed all relevant information concerning this third extension request and find that circumstances beyond the control of KershawHealth have contributed to the need for further extension of CON SC-17-80. Specifically, the applicant stated it had experienced a delay as a result of an ownership change at a level not subject to Department action under R. 61-15, Section 604. Prior to the expiration of SC-17-80-EXT-2, Department staff requested additional information concerning this transaction. On July 15, 2020, counsel for KershawHealth wrote to the Department and fully explained the nature of the purported transaction involving a potential change of ownership related to R. 61-15, Section 604. Department staff’s subsequent analysis of this information determined that the CON remained valid and is now subject to appropriate review and extension by the Board. Department staff have also determined that substantial progress towards implementing the project has been made and expect, based on the extension request itself, that the project will be implemented around November 2020.

**V. RECOMMENDATION:** Department staff recommend that the Board concur that KershawHealth has demonstrated extenuating circumstances beyond its control that have prevented the project from advancing, and that a nine-month extension of CON SC-17-80 be granted, with an expiration date of March 13, 2021.

Approved by:



---

Gwen C. Thompson  
Director  
Healthcare Quality

Attachments:

- A) CON SC-17-80
- B) Letter granting first extension of CON
- C) Letter granting second extension of CON
- D) Letter requesting third extension of CON
- E) Excerpt of R. 61-15, Section 604
- F) Letter detailing KershawHealth's ownership change

# South Carolina Department of Health and Environmental Control



Certificate of Need

**SC-17-80**

FACILITY NAME: KershawHealth Ambulatory Surgery Center

LOCATION: Kershaw County

LICENSEE: KershawHealth Ambulatory Surgery Center, LLC

FOR: Construction of an ambulatory surgical facility with 3 operating rooms.

TOTAL PROJECT COST: \$11,420,429

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

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

This Certificate of Need is valid until December 13, 2018, which is a period of twelve (12) months from the date of issuance, unless the applicant receives an extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 13<sup>th</sup> day of December, 2017.

A handwritten signature in black ink, appearing to read "Louis W. Eubank".

-----  
Louis W. Eubank, Chief  
Bureau of Healthcare Planning and Construction





December 13, 2018

**VIA CERTIFIED MAIL**

Terry Gunn  
Chief Executive Officer  
KershawHealth Ambulatory Surgery Center, LLC  
1315 Roberts Street  
Camden, SC 29020

**Re: Request for an Extension of Certificate of Need No. SC-17-80**  
**Applicant:** KershawHealth Ambulatory Surgery Center, LLC d/b/a KershawHealth Ambulatory Surgery Center  
**Project:** Construction of an ambulatory surgical facility with 3 operating rooms at a total project cost of \$11,420,429.  
**Location:** Kershaw County, South Carolina  
**Application No.:** 2453

Dear Mr. Gunn:

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

Based on the material you provided in support of your request, it is the decision of the Department to **grant you a nine (9) month initial extension** for Certificate No. SC-16-183. The Department's decision is based on the following findings:

- You have provided the Department with reasonable assurance that the Project will be implemented within the requested extension period.

As required by Regulation No. 61-15, Section 607, you must continue to submit quarterly progress reports from the date of issuance of the original Certificate of Need (December 13, 2017). You must continue to report on, if applicable:

- a. Costs incurred on the project;
- b. Construction activity;
- c. Program or service activity; and
- d. Any deviations from the submitted application with supporting documentation.

The mandated due dates for these reports are as follows:

1<sup>st</sup> Quarterly Report: **March 13, 2019**

2<sup>nd</sup> Quarterly Report: **June 13, 2019**

3<sup>rd</sup> Quarterly Report: **September 13, 2019**

Failure to adhere to the reporting schedule and format may result in enforcement action, which may be inclusive of the voidance of the Certificate of Need and a monetary penalty pursuant to Regulation No. 61-15, Section 701.

Should the length of your project exceed the nine month period of this extension, you are required to file a second extension request with the Department pursuant to Regulation No. 61-15, Sections 602 and 603. The due date for the second extension request, if one is needed, is **August 14, 2019**. Extension requests received after this date will not receive consideration from the Department.

The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing or certification changes. You should contact the following individuals for information concerning these related issues: Bureau of Radiological Health, Ms. Susan Jenkins (803.545.0530); Division of Health Facilities Construction, Mr. William McCallum (803.545.4211); Division of Health Licensing, Ms. Gwendolyn Thompson, (803.545.4370); and Bureau of Certification, Ms. Maryjo Roué (803.545.4293).

If this office can be of further service to you or if you have any questions concerning the above, feel free to contact me at (803) 545-0260.

Sincerely,



Jennifer Hyman  
CON Reviewer, Midlands Region  
Certificate of Need Program

cc: Walter H. Cartin, Esquire (via e-mail)

Enclosures: CON SC-17-80 -EXT-1

# South Carolina Department of Health and Environmental Control



Certificate of Need

**SC-17-80-EXT-1**

FACILITY NAME: KershawHealth Ambulatory Surgery Center

LOCATION: Kershaw County

LICENSEE: KershawHealth Ambulatory Surgery Center, LLC

FOR: Construction of an ambulatory surgical facility with 3 operating rooms.

TOTAL PROJECT COST: \$11,420,429

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

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

This Certificate of Need is valid until September 13, 2019, which is a period of nine (9) months from the date of issuance, unless the applicant receives an extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 13<sup>th</sup> day of December, 2018.

A handwritten signature in blue ink, appearing to read "Louis W. Eubank".

Louis W. Eubank, Chief  
Bureau of Healthcare Planning and Construction







Article #: 92148969009997901416167353

October 24, 2019

**VIA CERTIFIED MAIL**

Terry Gunn  
Chief Executive Officer  
KershawHealth Ambulatory Surgery Center, LLC  
1315 Roberts Street  
Camden, SC 29020

**Re: Request for a Second Extension of Certificate of Need No. SC-17-80**  
**Applicant:** KershawHealth Ambulatory Surgery Center, LLC d/b/a KershawHealth Ambulatory Surgery Center  
**Project:** Construction of an ambulatory surgical facility with 3 operating rooms at a total project cost of \$11,420,429.  
**Location:** Kershaw County, South Carolina  
**Application No.:** 2453

Dear Mr. Gunn:

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

Based on the material you provided in support of your request, it is the decision of the Department to **grant you a nine (9) month second extension** for Certificate No. SC-17-80. The Department's decision is based on the following findings:

- You have provided the Department with reasonable assurance that the Project will be implemented within the requested extension period.

As required by Regulation No. 61-15, Section 607, you must continue to submit quarterly progress reports from the date of issuance of the original Certificate of Need (December 13, 2017). You must continue to report on, if applicable:

- a. Costs incurred on the project;
- b. Construction activity;
- c. Program or service activity; and
- d. Any deviations from the submitted application with supporting documentation.

The mandated due dates for these reports are as follows:

1<sup>st</sup> Quarterly Report: **December 13, 2019**

2<sup>nd</sup> Quarterly Report: **March 13, 2020**

3<sup>rd</sup> Quarterly Report: **June 13, 2020**

Failure to adhere to the reporting schedule and format may result in enforcement action, which may be inclusive of the voidance of the Certificate of Need and a monetary penalty pursuant to Regulation No. 61-15, Section 701.

Should the length of your project exceed the nine month period of this extension, you are required to file a DHEC Board extension request with the Department pursuant to Regulation No. 61-15, Sections 602 and 603. The due date for the Board extension request, if one is needed, is **March 15, 2020**. Extension requests received after this date will not receive consideration from the Department.

The issuance of a Certificate of Need does not constitute approval for any proposed construction, licensing or certification changes. You should contact the following individuals for information concerning these related issues: Bureau of Radiological Health, Ms. Susan Jenkins (803.545.0530); Division of Health Facilities Construction, Mr. William McCallum (803.545.4211); Division of Health Licensing, Ms. Angie Smith, (803.545.4252); and Bureau of Certification, Ms. MaryJo Roué (803.545.4293).

If this office can be of further service to you or if you have any questions concerning the above, feel free to contact me at (803) 545-0260.

Sincerely,

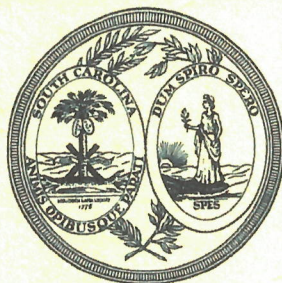


Jennifer Hyman  
CON Reviewer, Midlands Region  
Certificate of Need Program

cc: Walter H. Cartin, Esquire (via e-mail)

Enclosures: CON SC-17-80 -EXT-2

# South Carolina Department of Health and Environmental Control



Certificate of Need

**SC-17-80-EXT-2**

FACILITY NAME: KershawHealth Ambulatory Surgery Center

LOCATION: Kershaw County

LICENSEE: KershawHealth Ambulatory Surgery Center, LLC

FOR: Construction of an ambulatory surgical facility with 3 operating rooms.

TOTAL PROJECT COST: \$11,420,429

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

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

This Certificate of Need is valid until June 13, 2020, which is a period of nine (9) months from the date of issuance, unless the applicant receives an extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 13<sup>th</sup> day of September, 2019.

A handwritten signature in blue ink, appearing to read "L. Eubank", is written over a horizontal dashed line.

Louis W. Eubank, Chief  
Bureau of Healthcare Planning and Construction





SC DHEC  
Received

MAR 13 2020

Front Desk

Walter H. Cartin  
Partner  
t: 803.253.6840  
f: 803.255.8017  
waltcartin@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

March 13, 2020 **RECEIVED**

MAR 13 2020

VIA EMAIL AND HAND DELIVERY

The Honorable M. Denise Crawford  
Clerk of the Board  
South Carolina Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

SC Department of  
Health & Environmental Control

Re: *SC-17-80, Application #2453 - KershawHealth Ambulatory Surgery Center, LLC  
Construction of an ambulatory surgery facility with three operating rooms*

**THIRD EXTENSION REQUEST AND QUARTERLY PROGRESS REPORT**

Dear Ms. Crawford:

On behalf of KershawHealth Ambulatory Surgery Center, LLC (“KershawHealth ASC”) and pursuant to S.C. Code Ann. § 44-7-230(D) and S.C. Reg. 61-15, §§ 601 – 603, KershawHealth ASC respectfully requests an extension of the above-referenced Certificate of Need (SC-17-80). The CON is due to expire on June 13, 2020. Thus, KershawHealth ASC is requesting that the Board extend SC-17-80’s expiration date to March 13, 2021. As required, KershawHealth ASC is submitting this request more than three months before the expiration date of the Certificate of Need, and is providing the information required under Sections 601(4), 602 and 603. KershawHealth is also submitting the following information to the Department in accordance with S.C. Reg. 61-15, § 607, representing its March quarterly progress report.

**a. A detailed description of any changes in the configuration, costs, services, or scope of the project.**

As presented in its CON application, KershawHealth ASC will be built on a 10-acre parcel of land. In order to take advantage of certain value engineering efficiencies, the project will be built at a different location within the same 10-acre parcel. There will be no change to the address of the project, nor does KershawHealth ASC anticipate any increase in costs or functional changes to the project. This is simply a minor alteration to the site configuration. To date, KershawHealth ASC has incurred approximately \$227,759.93 in costs, representing architectural and professional fees.

**b. A detailed description and documentation of any progress on the project including preparation of construction drawings, the securing of necessary funds and building permits, and commencement of any construction.**

KershawHealth ASC has selected an architectural firm, and the architectural contract was executed on October 31, 2019. The architectural schematic design package and narratives were completed on December 5, 2019, design development and the storm water detention analysis are 50% complete, civil design is 65% complete, and the construction contract can be completed by November 2020.

**c. An estimated timetable for commencement and completion of all remaining components of the project.**

KershawHealth ASC believes that the following chart represents an achievable timetable for the project:

<b>Activity</b>	<b>CON SC-17-80 Timetable</b>
Architectural Contract	Completed
Architectural Design	Completed
Construction Contract	November 2020
Permits Obtained	November 2020
Start of Construction	December 2020
Completion of Construction	January 2022

In order to ensure that the timetable is achievable, KershawHealth ASC has added a six month buffer to the project's previously submitted timetable. According to KershawHealth ASC's design and development team, this amendment accounts adequately for the time needed to complete the construction contract and obtain the necessary permits. In addition, and as the Board is undoubtedly aware, Kershaw County is the epi-center of the COVID-19 pandemic in South Carolina. As such, the leadership team responsible for the KershawHealth ASC project is currently working to ensure that Kershaw County's healthcare delivery system is well prepared to handle the rapidly growing demand for healthcare services. Understanding that this once-in-a-lifetime pandemic will consume much of leadership's time and energy over the next few months, KershawHealth ASC believes it wise to adjust the timetable.

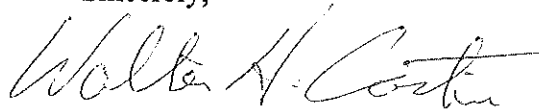
**d. Documentation of compliance with the approved timetable or documented evidence that extenuating circumstances beyond the control of the applicant if the timetable was not met.**

As described in KershawHealth ASC's first and second extension requests (attached hereto), KershawHealth ASC is now a LifePoint Health facility, following a transaction that occurred in the fourth quarter of 2018, which has contributed to delays beyond the control of the applicant in connection with this project's timetable. The complexity of the transaction involved a very rigorous, methodical process of bringing together two well established hospital companies that had entirely different policies, procedures, mission, vision, values and business practices under one governing structure. The alignment of the care teams, physicians and clinicians of both companies was also a challenge, though very important to ensure that quality remains at the forefront of all the organization stands for and builds upon. As with any management transition, the new leadership team took time to evaluate pending projects and to determine how they might be clinically improved in accordance with LifePoint Health's high operational and clinical standards.

Accordingly, KershawHealth ASC respectfully requests that the Department issue a nine-month extension of the June 13, 2020 expiration date of CON SC-17-80. Should you have any questions, please do not hesitate to contact me.

With best regards, I am

Sincerely,



Walter H. Cartin

WHC/ccq  
Attachments

cc: Margaret P. Murdock, Esquire (w/enclosures)

# Regulation 61-15

## Certification of Need for Health Facilities and Services

### Disclaimer

DHEC provides this copy of the regulation for the convenience of the public and makes every effort to ensure its accuracy. However, this is an unofficial version of the regulation. The regulation's most recent final publication in the *South Carolina State Register* presents the official, legal version of the regulation.

4. However, the Board may grant further extensions of the Certificate of Need of up to nine months each if it determines that substantial progress has been made. A request to the Board must be made at least three months prior to the expiration of the Certificate of Need and must contain justification for such extension.

**Section 602. Extension Request:**

1. A Certificate of Need extension shall be requested by the applicant at least thirty (30) days before the expiration date and shall contain such information as the Department may reasonably require.
2. This information shall include at least the following:
  - a. A detailed description of any changes in the configuration, costs, services, or scope of the project.
  - b. A detailed description and documentation of any progress on the project including preparation of construction drawings, the securing of necessary funds and building permits, and commencement of any construction.
  - c. An estimated timetable for commencement and completion of all remaining components of the project.
  - d. Documentation of compliance with the approved timetable or documented evidence that extenuating circumstance beyond the control of the applicant if the timetable was not met.

**Section 603. Criteria for Extension:**

The following criteria shall be used to determine whether substantial progress has been made by the applicant:

1. Site procurement: The applicant should have made definitive progress toward permanent acquisition of the intended site. Such progress may include purchase of property previously under option or consummation of long-term lease agreements.
2. Architectural Progress: The facility architect should have been employed and definitive progress should be made toward development of final drawings.
3. Financial Status: The applicant should document definitive progress toward finalizing any necessary loans or lease-purchase arrangements.
4. The applicant should provide reasonable assurance that the project will be under construction or implemented within the requested extension time frame.

**Section 604. Non-Transferability of Certificate of Need:**

A Certificate of Need is nontransferable. A Certificate of Need or rights there under may not be sold, assigned, leased, transferred, mortgaged, pledged, or hypothecated, and any actual transfer or attempt to make a transfer of this sort results in the immediate voidance of the Certificate of Need. Any of the aforementioned transactions involving an entity directly or indirectly holding a Certificate of Need before fulfillment of the Certificate of Need results in the transfer and the subsequent voidance of the Certificate of Need. Fulfillment of the Certificate of Need occurs, although not limited to, the submission of an



adequate final completion report as determined by the Department. Anyone having their Certificate of Need voided shall not be eligible to apply for a new Certificate for a period of one (1) year without Board approval.

**Section 605. Project Changes After Receipt of Certificate of Need:**

If an applicant amends or alters his project after receipt of a Certificate of Need, the Department will decide whether or not the amendment is substantial and thereby constitutes a new project.

**Section 606. Total Project Cost:**

In issuing a Certificate of Need, the Department shall specify the approved total project cost. A project is only approved for the amount specified in the Certificate of Need. The Department will review overruns on an individual basis.

**Section 607. Periodic Reporting of Certificate of Need Implementation:**

1. The applicant is required to submit a quarterly progress report that corresponds with the timetable included in the Certificate of Need application beginning ninety (90) calendar days after receipt of the Certificate of Need. Failure to meet the timetable results in the revocation of the Certificate of Need by the Department unless a determination is made by the Department that circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay.

2. The applicant shall report on, if applicable: (1) costs incurred on the project; (2) construction activity; (3) program or service activity; and (4) any deviations from the submitted application with supporting documentation.

3. After the project has been fully implemented, the applicant shall provide the Department with a final completion report that contains, at a minimum:

- a. An audited cost report that shows all expenditures on the approved project;
- b. A list of average charges and costs for the services approved in the application and documented by affidavit, certification or other proof;
- c. A registered architect's or engineer's signed statement of final construction costs;
- d. An equipment listing and inventory for the project;
- e. A program and/or service narrative describing the final project configuration; and
- f. An explanation of any deviation from the approved application with justification, or a signed statement from the applicant that the project was implemented as outlined in the application.

4. Records relating to the project shall be maintained by the applicant for seven (7) years following the completion of the project and these records shall be made available to the Department's auditors for inspection as needed.

5. The Department may audit any project for consistency with the information provided in the Certificate



David B. Summer, Jr.  
*Partner*  
t: 803.253.8910  
f: 803.255.8017  
davidsummer@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

July 15, 2020

**Via Hand Delivery and  
E-mail (EubankLW@dhec.sc.gov)**

Louis W. Eubank, MSW, MPH  
Chief, Bureau of Healthcare Planning and Construction  
South Carolina DHEC  
301 Gervais Street  
Columbia, SC 29201

Re: **KershawHealth Ambulatory Surgery Center, LLC  
CON SC-17-80  
Third Extension Request**



Dear Mr. Eubank:

I am writing in response to your email of June 10, 2020, and our subsequent conversations requesting additional information regarding our client, KershawHealth Ambulatory Surgery Center, LLC's ("Kershaw ASC") request for a third extension of its Certificate of Need ("CON") for the construction of an ambulatory surgery center ("ASC") in Elgin, South Carolina. You have inquired as to the nature of certain transactions and their effect on the ownership structure of Kershaw ASC and the CON. As explained herein, there has been no change in the controlling interest of the licensee and, thus, no change in the ownership of the CON.

Kershaw ASC is the licensee and holder of the CON. Kershaw was issued the CON on December 13, 2017. On November 12, 2018, Kershaw submitted its first request for an extension of the CON. In that request, Kershaw notified the Department that RegionalCare Hospital Partners, Inc., d/b/a RCCH Healthcare Partners ("RCCH") intended to merge with LifePoint Health ("LifePoint"). In its fifth quarterly progress report, filed on March 13, 2019, Kershaw ASC informed the Department that the merger was finalized in the fourth quarter of 2018.

As set forth in the CON application, RCCH is an upstream entity in Kershaw's organizational structure. See **Exhibit A**. There are four entities intervening between Kershaw and RCCH. The merger of an upstream entity, which does not impact the CON, does not implicate the CON transfer prohibitions. See S.C. Code Ann. § 44-7-240(E). See also S.C. Code Ann. Regs. 61-15, § 604. In *Three Rivers Behavioral Health v. South Carolina Department of Health and Environmental Control*, Docket Number 07-ALJ-07-0256-CC (S.C. Admin. Law Judge Div. 2007), the South Carolina Administrative Law Court ("ALC") found that "a transfer of control in an upstream entity is significant for CON purposes only when the licensed facility's costs or government reimbursement are increased." See **Exhibit B**, p. 7. The ALC further found that "transactions occurring *two corporate levels* above the actual licensed holder of a CON "do not

implicate the transfer prohibitions set forth in the CON Act and CON Regulations. *See id.* at p. 8 (emphasis added). “[W]hen such transactions have no impact on the licensee's operations or implementation of the CON,” voiding the CON would be “in derogation of the corporate boundaries legitimately established between parent/holding entities and their subsidiaries and [would be] contrary to both Certificate of Need and basic corporate law.” *See id.* at p. 8.

The merger between RCCH and LifePoint resulted in no increase in costs or reimbursement and thus was “not significant for CON purposes.” *Id.* at p. 7. Furthermore, the merger took place four levels up the corporate chain, twice that of the transaction in the *Three Rivers* case. Kershaw notified the Department of the merger, prior to its consummation, when it filed the first CON extension request. Kershaw subsequently informed the Department that the merger had been finalized when it filed its fifth quarterly progress report on March 13, 2019. The Department approved the CON extension on December 13, 2018 and, until now, has never requested any information on the RCCH/LifePoint merger. *See id.* at p. 12 (finding the Department to be estopped, by its silence, from voiding the CON). In sum, the merger between RCCH and LifePoint had no significance with regard to the CON and does not implicate the transfer prohibitions.

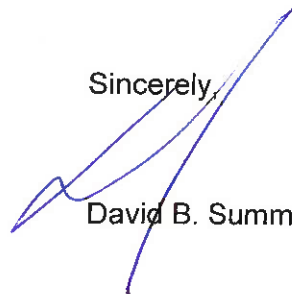
In addition to information regarding the RCCH/LifePoint merger, you have inquired as to the Prisma Health – Midlands’ (“Prisma”) proposed purchase of certain LifePoint assets and requested an explanation as to how the CON may be affected by that purchase. Kershaw ASC is not subject to the asset purchase agreement and will not be implicated by the sale of the LifePoint assets. Kershaw ASC will continue under its current ownership structure; therefore, the CON is in no way impacted by the proposed sale of assets to Prisma.

Kershaw ASC has complied with all Department regulations, timely filed all of its required quarterly progress reports, and timely requested extensions of its CON. While there have been some unanticipated and unavoidable delays in implementing this project, Kershaw ASC has expended approximately \$241,865 on the project this far. Architectural and schematic designs are in place, and Kershaw ASC believes those plans reflect a more efficient, cost-effective design for the project. Kershaw ASC is ready to move forward and to complete the project in accordance with the timelines contained in the most recent quarterly progress report and the request for a third extension of the CON.

In that regard, Kershaw ASC respectfully renews its request that the CON be extended and kindly asks that this issue be considered by the Department Board at its next scheduled meeting. If I can provide you with any additional information regarding the project, please do not hesitate to contact me.

With best regards, I am

Sincerely,



David B. Summer, Jr.

DBS:jbo  
Enclosures

# Exhibit A

**KERSHAW HEALTH AMBULATORY SURGERY CENTER  
ELGIN, SOUTH CAROLINA**

**CERTIFICATE OF NEED APPLICATION  
FOR THE CONSTRUCTION OF AN  
AMBULATORY SURGERY CENTER**

**Submitted To:**

**Bureau of Health Facilities and Services Development  
South Carolina Department of Health and Environmental Control  
301 Gervais Street  
Columbia, South Carolina 29201**

- (1) Should the licensee be a subsidiary corporation, provide a diagram of the licensee's relationship to the parent corporation and list the name and address of the parent corporation as well as the corporation which has ultimate control. In addition, please provide the name and mailing address of all persons and/or legal entities having ownership interest of 5 percent or more or any person with any agreement, contract, option, arrangement, or intent to acquire ownership interest of 5 percent or more, of all corporations in the corporate organizational structure which have ultimate control of the licensee.

DSB Acquisition LLC (DE)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

RegionalCare Hospital Partners Holdings, Inc. d/b/a RCCH Healthcare Partners (DE)(TN)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

Capella Health Holdings, LLC (DE)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

Capella Holdings, LLC (DE)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

Capella Healthcare, LLC (DE)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

Kershaw Health Holdings, LLC (SC)  
103 Continental Place, Suite 200  
Brentwood, TN 37027

↓100%

**LICENSEE: KershawHealth Ambulatory Surgery Center, LLC (DE)(SC)**  
**103 Continental Place, Suite 200**  
**Brentwood, TN 37027**

# Exhibit B

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Three Rivers Behavioral Health, LLC, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
South Carolina Department of Health and )  
Environmental Control, )  
 )  
Respondent. )

Docket No. 07-ALJ-07-0256-CC

Three Rivers Behavioral Health, LLC, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
South Carolina Department of Health and )  
Environmental Control, )  
 )  
Respondent. )

Docket No. 07-ALJ-07-0420-CC

**ORDER FOR SUMMARY  
JUDGMENT**

This matter comes before the Administrative Law Court (ALC or Court) on the motion of the Petitioner Three Rivers Behavioral Health, LLC ("Three Rivers") for an order granting summary judgment to Three Rivers and reversing the decision of the Respondent South Carolina Department of Health and Environmental Control ("Department") to void Three Rivers' Certificate of Need SC-06-42 to add 32 beds to its West Columbia facility (the "32-Bed CON"). After reviewing the memoranda and affidavits submitted by the parties and hearing the arguments of counsel, I find that Three Rivers is entitled to summary judgment in this case on the grounds that, as a matter of law, the Department acted outside its authority and in contravention of established law in voiding the 32-Bed CON.

**BACKGROUND**

The following facts are not disputed by the parties. In 2005, the Department approved Three Rivers' Certificate of Need application for the construction and addition of thirty-two beds at its West Columbia psychiatric hospital. The Department's approval of Three Rivers' 32-Bed

**FILED**

DEC 05 2007

SC ADMIN. LAW COURT

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CON application was contested by Palmetto Health Alliance in Palmetto Health Alliance, Palmetto Health Baptist Medical Center of Columbia & Palmetto Health Richland v. South Carolina Department of Health and Environmental Control & Three Rivers Behavioral Health, LLC, Case No. 05-ALJ-07-0366-CC. As part of an agreement settling the case, the Department issued the 32-Bed CON on July 18, 2006.

Three Rivers Behavioral Health, LLC, the Petitioner, is the limited liability company entity with 100% ownership of the hospital operations and, at all times relevant hereto, is and has been the licensed entity for operation of the hospital under the law. As the licensee, Three Rivers is also the entity that holds the 32-Bed CON. At all times relevant to the inquiry at hand, Three Rivers was owned 100% by Three Rivers Healthcare Group, LLC, a limited liability holding company. This holding company was in turn owned equally by four individuals.

In December 2006, six months after issuance of the 32-Bed CON, the four individuals entered into an agreement with Premier Behavioral Solutions, Inc. ("Premier"), for Premier to purchase the four individuals' membership interests in the holding company. Before and after the change in ownership of the holding company, the holding company entity continued to own 100% of Three Rivers and Three Rivers remained the licensee which owned, controlled, and operated the hospital facility.

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Prior to the close of the sale, Mary Margaret Hyatt, counsel for Premier, met on December 15, 2006 with Joel Grice, the Director of the Bureau of Health Facilities and Services for the Department, to discuss the Department's requirements with regard to the proposed sale of the membership interests in the holding company. At that meeting, Ms. Hyatt explained the transaction and gave Mr. Grice a written Request for Determination of Non-Applicability with respect to the transaction. This request by Ms. Hyatt was made on the grounds that the transaction was not an acquisition or change in ownership or in controlling interest of a health care facility or entity owning a health care facility directly or indirectly by purchase, lease, gift, donation, sale of stock or comparable arrangements that resulted in increased cost to the facility or an increase in government-sponsored reimbursement. See S.C. Code Ann. § 44-7-160(7) (2002). Three Rivers attached supporting documentation to its request for a Non-Applicability Determination to address the requirements of the statute.

In response to Ms. Hyatt's request for a determination that the purchase of the membership interests of the upstream holding company did not affect the 32-Bed CON issued to the facility, on December 27, 2006 the Department issued Exemption E-06-88 confirming that:

Based upon the information contained in your letters dated December 15, 2006, and December 27, 2006, the above-referenced project does not require Certificate of Need review because it is the acquisition or change in controlling interest of a health care facility or entity owning a health care facility directly or indirectly by purchase, lease, gift, donation, sale of stock, or comparable arrangement because the acquisition or change in ownership or controlling interest does not result in an increase in cost to the facility or increase in government sponsored reimbursement. Therefore the project is exempted from review as stated in Title 44, Chapter 7, Section 44-7-160 of The South Carolina Code of Laws.

(December 27, 2006 Letter from Ms. Tibshirany to Ms. Hyatt, attached as Exhibit 2 to Petitioner's Motion for Summary Judgment).

In notifying the public of its determination in its January 2007 *Certificate of Need Update*, the Department stated:

Acquisition of Three Rivers Healthcare Group, LLC, the owner of the real property of Three Rivers Behavioral Health, by Premier Behavioral Solutions, Inc.; the licensee of the hospital, Three Rivers Behavioral Health, LLC, will not change as [a] result of this transaction.

(Exhibit 6, Petitioner's Motion for Summary Judgment) (emphasis added).

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Several days after the issuance of the exemption, Ms. Hyatt again spoke with Mr. Grice concerning the proposed transaction and its effect on the licensed facility. According to Ms. Hyatt, she and Mr. Grice discussed the Department's decision that the sale of the holding company membership interests did not require Certificate of Need review and that there would be no change in the ownership of the licensee or in the operation of the facility. Ms. Hyatt states in her Affidavit, which is before the Court, that Mr. Grice confirmed during the conversation that there would be no impact on any outstanding Certificates of Need held by the licensee because the licensee did not change; however, Mr. Grice indicated that he wanted to discuss the matter with the staff member who had issued the Three Rivers' December 27, 2006 exemption determination. According to Ms. Hyatt, Mr. Grice followed up with her shortly thereafter, advising her that the Department believed that the upstream transaction would not impact any Certificates of Need held by the downstream licensee while cautioning that the Department could not prevent third party challenges in that regard. (Affidavit of Mary Margaret Hyatt, Exhibit 3, attached to Petitioner's Motion for Summary Judgment).

The Department does not dispute that a meeting took place on December 15, 2006 between Ms. Hyatt, Mr. Grice and Department staff, the accuracy of Three Rivers' submission

seeking a non-applicability determination, or the Department's December 27, 2006 determination that the sale of the holding company membership interests met the requirements of § 44-7-160(7) and did not require Certificate of Need review. However, the Department does dispute Ms. Hyatt's recollection of the follow up conversations, asserting that Mr. Grice and Ms. Hyatt discussed only general Certificate of Need law and not the specific Three Rivers' 32-Bed CON licensure during those conversations. (Affidavit of Mr. Grice, Exhibit 1 to the Department's Memorandum in Opposition to Summary Judgment).<sup>1</sup>

Notwithstanding the Department's version of the early January 2006 dialogue between Ms. Hyatt and Mr. Grice, Ms. Hyatt confirmed in writing on January 5, 2007 her recollection of their conversation, stating that the Department agreed that the purchase of the upstream holding corporation interests would not affect Three Rivers' ability to implement its pending 32-Bed CON, that CON review was not required for the transaction and that the licensee would not change. Neither Mr. Grice nor any employee of the Department responded to Ms. Hyatt's January 5, 2007 letter until January 24, 2007.

On January 24, 2007, Mr. Grice sent a letter to Ms. Hyatt in which he informed her that the Department intended to void the 32-Bed CON because it had determined that the sale of the interests of the upstream holding company amounted to an illegal transfer of Three Rivers' 32-Bed CON. According to Mr. Grice's Affidavit, his early January conversation with Ms. Hyatt concerned general Certificate of Need law, and it was not until sometime in late January that he was reminded by a progress report that Three Rivers had the 32-Bed CON. Mr. Grice states that the progress report "triggered a question" in his mind whether the sale of Three Rivers' holding company interests might affect the CON. Mr. Grice claims that he concluded at that time that "the change in ownership in this case resulted in an invalid transfer of the Certificate of Need because the ownership of the licensed entity changed."

As explained in his Affidavit, the reason for Mr. Grice's voidance of the 32-Bed CON was a Department practice that considered the transfer of ownership or control within two corporate levels of a licensee as being an illegal transfer of all CONs held by the licensee. (Affidavit of Mr. Grice, Exhibit 1 to the Department's Memorandum in Opposition to Summary Judgment). The parties do not dispute that this Department practice has not been published in any form available to the public.

<sup>1</sup> For purposes of considering Three Rivers' Motion for Summary Judgment, I find this dispute as to the follow up conversations to be immaterial.

Thus, the January 24, 2007 letter from Mr. Grice was the first notice given to Three Rivers that the Department considered the purchase of membership interests in the upstream holding corporation to be an illegal transfer of Three Rivers' 32-Bed CON, resulting in voidance of the CON. This notice of the Department's position that the 32-Bed CON would be voided by the transaction came approximately three weeks after the transaction had closed. On April 17, 2007, after Three Rivers objected to the Department's announced intentions, the Department issued a formal decision voiding Three Rivers' 32-Bed CON.

On May 3, 2007, pursuant to S.C. Code Ann. § 44-1-60(E), Three Rivers timely filed its request for a final review conference by the Board of Health and Environmental Control of the decision to void the 32-Bed CON. On May 17, 2007, the Board declined to conduct a final review conference. Three Rivers' then requested a contested case review by this Court.

Because of the pending contested case, on June 18, 2007, Three Rivers timely filed a request pursuant to S.C. Code Ann. Reg. 61-15, sections 601 and 602, for an extension of the 32-Bed CON to allow this Court to consider Three Rivers' appeal of the Department's decision to void the CON. Three Rivers believed that, in the absence of such an extension, the 32-Bed CON would have expired according to its own terms during the course of this contested case proceeding and, thus, would be invalid apart from the Department's earlier to decision to void the CON because of the sale of holding company interests. On July 12, 2007, the Department denied Three Rivers' request for an extension.

On July 18, 2007, pursuant to § 44-1-60(E), Three Rivers timely filed its request for a final review conference by the Board of Health and Environmental Control and, on August 17, 2007, the Board declined to conduct a final review of the denial of the extension. Three Rivers requested a contested case hearing on the decision to deny an extension of the 32-Bed CON pending a decision on the merits of the Department's voidance of the CON. On September 26, 2007, this Court consolidated the two matters and both matters are before the Court today.

#### STANDARD OF REVIEW

Under ALC Rule 68, this Court may apply the South Carolina Rules of Civil Procedure in contested case proceedings where no Administrative Law Court rule applies and when practicable. Therefore, Rule 56(C), SCRCP, applies in determining whether summary judgment is proper in this case. As stated by the Court of Appeals in International Fidelity Insurance Company v. China Construction America (SC) Inc., 375 S.C. 175, 650 S.E.2d 677, 678-79 (Ct. App. 2007):

Summary judgment is proper when there is no issue as to any material fact and the moving party is entitled to a judgment as a matter of law. To determine whether any triable issues of fact exist, the reviewing court must consider the evidence and all reasonable inferences in the light most favorable to the non-moving party. When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.

(citations omitted).

### DISCUSSION

The Department's authority to void a previously issued Certificate of Need is found in S.C. Code Ann. § 44-7-230(E) and S.C. Code Reg. 61-15, section 604(1), which provide:

A Certificate of Need is nontransferable. A Certificate of Need or rights thereunder may not be sold, assigned, leased, transferred, mortgaged, pledged, or hypothecated, and any actual transfer or attempt to make a transfer of this sort results in the immediate voidance of the certificate of need. The sale or transfer of the controlling interest or majority ownership in a corporation, partnership, or other entity holding, either directly or indirectly, a Certificate of Need, results in the transfer and voidance of a Certificate of Need.

(c) Applying the unpublished Department practice, referenced by Mr. Grice in his Affidavit, of considering transactions two corporate levels above the licensee to affect the licensee, the Department in this case applied section 604(1) to the sale of membership interests in Three Rivers' upstream holding company to find that Three Rivers had unlawfully "sold, assigned, leased, transferred, mortgaged, pledged, or hypothecated" its 32-Bed CON.

Three Rivers moves for summary judgment to reverse the Department's decision on two grounds. First, Three Rivers contends that neither Certificate of Need law nor the established law on corporations supports the Department's unpublished practice to void Certificates of Needs for transactions that occur within two corporate levels of the holder of a CON. Second, Three Rivers claims that, even if the Department's practice is lawful, the Department should be estopped from applying it in this case because of the Department's prior decision to approve the sale of holding company memberships without review and because the Department repeatedly discussed with Three Rivers the transaction and its effect on Three Rivers without ever advising of the unpublished Department practice that would void the 32-Bed CON. The Court finds that Three Rivers is entitled to summary judgment for both of the reasons Three Rivers argues.

#### Sale of Security Interests in a Corporation

The Department has not cited any provision of the Certificate of Need law which

supports its practice of deeming a sale of security interests in an entity two levels up the corporate chain to be a transfer of the assets of the downstream entity that holds a Certificate of Need. Under § 44-7-160(7), the acquisition or change in ownership or in controlling interest of an entity owning a health care facility is not subject to Certificate of Need review unless the transaction results in an increased cost to the facility or an increase in government-sponsored reimbursement.

Thus, under applicable Certificate of Need law, a transfer of control in an upstream entity is significant for CON purposes only when the licensed facility's costs or government reimbursement are increased. It is not disputed in this case that the sale of membership interests in Three Rivers' upstream holding company did not result in increased costs or an increase in government-sponsored reimbursement to Three Rivers' facility. The Department concluded as much when it issued its letter of exemption on December 27, 2006.

Furthermore, the Department's practice of interpreting S.C. Code Reg. 61-15, section 604(1) to apply to a transaction involving upstream entities is contrary to the long-established corporate law of this State which preserves the boundaries between parent and subsidiary corporations except in compelling circumstances.<sup>2</sup> For example, in WeSav Financial Corporation v. Lingefelt, 316 S.C. 442, 450 S.E.2d 580 (1994), the Supreme Court of South Carolina reversed a holding by the Court of Appeals that the receiver of a parent corporation's assets was the real party in interest in a collection action brought by a subsidiary corporation. In holding that the receiver was not the real party in interest, the Supreme Court found:

As receiver for Western, the RTC acquired title to Western's assets, which includes WeSav's stock. (citation omitted). However, the RTC's status as a shareholder does not make it the real party in interest. See Gordon v. Hollywood-Beaufort Package Corp., 213 S.C. 438, 49 S.E.2d 718 (1948) (the mere ownership of the capital stock of one corporation by another does not create an identity of corporate interest between the two or render the holding company the owner of the property of the other.).

*(7)*  
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Id. at 582. (emphasis added).<sup>3</sup>

<sup>2</sup> "It is settled authority that the doctrine of piercing the corporate veil is not to be applied without substantial reflection. Baker v. Equitable Leasing Corp., 275 S.C. 359, 367, 271 S.E.2d 596, 600 (1980). If any general rule can be laid down, it is that a corporation will be looked upon as a legal entity until sufficient reason to the contrary appears; . . ." Sturkie v. Sifly, 280 S.C. 453, 457, 313 S.E.2d 316, 318 (Ct. App. 1984).

<sup>3</sup> South Carolina courts have long recognized that that a parent corporation is a legal entity separate and distinct from its subsidiaries in almost every aspect of the transaction of business by a company, including the payment of taxes, liability on contracts and for debts, and the ability to be subjected to suit. See, e.g., Emerson Electric Co. v.

"When interpreting a regulation, [a court must] look for the plain and ordinary meaning of the words of the regulation, without resort to subtle or forced construction to limit or expand the regulation's operation." Converse Power Corp. v. S.C. Dep't of Health and Env'tl. Control, 350 S.C. 39, 47, 564 S.E.2d 341, 346 (Ct.App. 2002) (citing Byerly v. Connor, 307 S.C. 441, 444, 415 S.E.2d 796, 799 (1992)). When the language of a statute is plain, the court must reject an interpretation by an agency contrary to that language. Brown v. Bi-Lo, Inc., 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003).

Regulatory bodies like the Department have only the authority granted them by the General Assembly and any action taken outside of their statutory and regulatory authority is null and void. Responsible Econ. Dev., et al. v. S.C. Dep't of Health and Env'tl. Control, et al., 371 S.C. 547, 641 S.E.2d 425 (2007). An agency cannot materially add to or alter the regulating laws. Lee v. Mich. Millers Mut. Ins. Co., 250 S.C. 462, 468, 158 S.E.2d 774, 776 (1968).

In this case, the Department's practice of interpreting section 604(1) to extend to transactions occurring two corporate levels above the actual licensed holder of a CON, when such transactions have no impact on the licensee's operations or implementation of the CON, is in derogation of the corporate boundaries legitimately established between parent/holding entities and their subsidiaries and is contrary to both Certificate of Need and basic corporate law.<sup>4</sup> Therefore, I find that, once the Department determined in this case that the upstream sales

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Wasson, 287 S.C. 394, 397, 339 S.E.2d 118, 120 (1986) ("[W]hen two or more corporations join in a consolidated tax return, each remains an identifiable taxpayer. A corporation does not lose its status as an identifiable entity by affiliating with another."); Yarborough & Co. v. Schoolfield Furn. Indus., Inc., 275 S.C. 151, 153-54, 268 S.E.2d 42, 44 (1980) ("The mere acquisition and control of a domestic subsidiary's capital stock does not subject the foreign parent to the jurisdiction of that State's courts."); Mid-South Mgmt. Co., Inc. v. Sherwood Dev. Corp., 374 S.C. 588, 649 S.E.2d 135 (Ct. App. 2007) ("It is generally recognized that a corporation is an entity that is separate and distinct from, and its debts are not the individual debts of, its officers and stockholders."); Donahue v. Multimedia, Inc., 362 S.C. 331, 608 S.E.2d 162 (Ct. App. 2005) ("Since the transfer of the stock of a corporation does not constitute an assignment of the corporation's contract, the transfer of the stock of the parent of a contracting corporation can hardly constitute an assignment of the subsidiary's contract.") (applying New York law as consistent with South Carolina public policy).

<sup>4</sup> Moreover, the Department is required to promulgate any practice or policy, specifically related to the State Certification of Need and Health Facility Licensure Act ("Act"), as a regulation to have any force or effect in law. § 44-7-150 (Supp. 2006) ("In carrying out the purposes of this article, the department shall: . . . (3) adopt in accordance with Article I of the Administrative Procedures Act ["APA"] substantive and procedural regulations considered necessary by the department and approved by the board to carry out the department's licensure and Certificate of Need duties under this article, including regulations to deal with competing applications; . . ."). Here, the Department has not promulgated the above-referenced policy as a regulation. See Captain's Quarters Motor Inn, Inc. v. S.C. Coastal Council, 306 S.C. 488, 413 S.E.2d 13 (S.C. 1991) (rejecting the application of a state agency's policy relating to the evaluation of permit applications where the agency's enabling legislation mandates that such policies be promulgated as legislation).

transaction did not affect Three Rivers' operation of the facility under § 44-7-160(7), the Department lacked the authority to void the 32-Bed CON.

Estoppel

Three Rivers also argues that, even assuming that the Department's unpublished practice of considering transactions two corporate levels above the licensee for purposes of section 604(1) is authorized, in this case the Department should be estopped from applying the practice. To support estoppel, Three Rivers points to the Department's prior conduct in approving the transaction as exempt from review and the Department's silence in numerous encounters with Three Rivers about its unpublished practice and the effect it would have on the 32-Bed CON.

Generally, the doctrine of estoppel may not be used against the government to prevent the due exercise of its police power or to thwart the application of public policy. Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229 (2001). Notwithstanding this general rule, however, the courts of our State have applied estoppel against the government when the officers or agents in question are acting within the proper scope of their authority and when the other party has prejudicially changed its position in reliance on the erroneous conduct or statements of these officials.

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In Southern Development Land and Golf Company, Ltd. v. South Carolina Public Service Authority, 311 S.C. 29, 426 S.E.2d 748 (1993), the Plaintiff Developer argued that the South Carolina Public Service Authority should be estopped from condemning the Developer's property for the placement of high voltage transmission lines because, prior to purchasing the property, the Developer had inquired about existing power transmission lines on the property and had been assured by the Authority's Vice President that the existing lines could be buried at no expense to the Developer. The Authority's Vice President failed to inform the Developer, however, that the Authority had then-existing plans to place additional high voltage lines across the property and that those lines would cost the Developer \$2,000,000 to bury. In finding that the Developer was entitled to equitable estoppel against the Authority, the South Carolina Supreme Court found:

Estoppel by silence arises where a person owing another a duty to speak refrains from doing so and thereby leads the other to believe in the existence of an erroneous state of facts. Silence, when it is intended, or when it has the effect of misleading a party, may operate as equitable estoppel. There is no requirement that the person whose silence misleads another have actual knowledge of the true facts if circumstances are such that knowledge is necessarily imputed to him. Negligence will take the place of the intent to deceive when there is a duty to



disclose.

Id. at 33, 426 S.E.2d at 751 (citations omitted). Applying the law of estoppel by silence, the Court found that “[i]t is undisputed [the Authority]’s plans were established at the time [Developer] sought assurances regarding the burial of the existing electric lines from [the Authority’s Vice President]. [The Vice President] had ready access to this information. We find these facts sufficient to estop [the Authority].” Id. at 34, 426 S.E.2d at 751.

In addressing the Authority’s argument that the Developer should have been aware that transmission lines could be placed on the property because of a recorded easement in favor of the Authority running across the property, the Court held:

One with knowledge of the truth or the means by which with reasonable diligence he could acquire knowledge cannot claim to have been misled [sic]. The Court of Appeals found that [Developer] had the means of determining [the Authority]’s plans for future expansion of its system by simply making an appropriate inquiry as the pre-existing easement was a matter of public record. It is not disputed [Developer] was aware of the pre-existing easement. The easement, however, did not convey [the Authority]’s plans to construct this additional high voltage transmission line. We find [Developer]’s inquiry to [the Authority’s Vice President] constituted an appropriate inquiry into [the Authority]’s immediate use of this easement.

Id. With regard to the argument that it was not reasonable for the Developer to rely on the assertions of the Authority’s Vice President because they were not legally binding, the Supreme Court found:

Finally, reliance by the party seeking to assert estoppel must be reasonable. (citation omitted). However, the reliance need not rise to a level of a reasonable but erroneous belief the representations are legally binding. Thus, [Developer]’s recognition that [the Authority’s Vice President]’s representations were not legally binding is not dispositive on the issue of reliance. [Developer] was directed to [the Vice President] by the former chairman of [the Authority]. [The Vice President] held a high level position and the assurances given by [him] were within his authority. Accordingly we find [Developer]’s reliance justified.

Id.

In this case, prior to the sale of membership interests in its holding company, Three Rivers’ counsel met with Joel Grice, the Director of the Bureau of Health Facilities and Services for the Department,<sup>5</sup> and explained the transaction to the Department. Three Rivers’ provided

<sup>5</sup> In his Affidavit, Mr. Grice indicates that he has been the Director of the Bureau of Health Facilities and Services Development for seven years and prior to that served as the Director of the Office of Certification of Need for

Mr. Grice a written Request for Determination of Non-Applicability with respect to the transaction. It is not disputed that Mr. Grice did not inform Three Rivers' at this time that the Department's unpublished practice would require it to void Three River's 32-Bed CON should the transaction be consummated.

On December 27, 2006, the Department determined in writing that the sale of membership interests in the holding company was not an acquisition or change in ownership or in controlling interest of a health care facility or entity owning a health care facility directly or indirectly by purchase, lease, gift, donation, sale of stock, or comparable arrangement that resulted in an increase in cost to the facility or increase in government-sponsored reimbursement under § 44-7-160(7) and, thus, was not reviewable under Certificate of Need law. Again, this written determination by the Department did not mention the Department's unpublished practice and its effect on Three Rivers' 32-Bed CON.

Several days after the Department's determination that the transaction was not reviewable under Certificate of Need law, Three Rivers again contacted Mr. Grice. Although Ms. Hyatt and Mr. Grice assert different versions of these January follow up conversations concerning the effect the transaction would have on Three Rivers' 32-Bed CON, it is undisputed that, yet again, Mr. Grice did not inform Three Rivers of the Department's unpublished practice of voiding Certificates of Need for changes in control occurring two levels or less up the corporate chain of ownership.

Finally, when Three Rivers' counsel wrote Mr. Grice on January 5, 2007 to confirm her version of the conversation with him that the 32-Bed CON was not affected by the transaction, Mr. Grice did not at that time inform Ms. Hyatt of the Department's unpublished, but long-standing, practice of considering transactions two levels up the corporate chain as adversely affecting Certificates of Need held by the licensee. Only after the transaction was consummated and ownership of the upstream holding company changed hands did Mr. Grice, on behalf of the Department, inform Three Rivers that its 32-Bed CON was voided by the transaction.

As in the Southern Development case, Three Rivers' lacked the means to discover the Department's unwritten and unpublished practice except through inquiry to the Department, and

sixteen years. According to Mr. Grice, he has been involved exclusively with the regulation of health facilities, including licensing, planning, and Certificate of Need for the past 32 years. (Affidavit of Mr. Grice, Exhibit 1 to the Department's Memorandum in Opposition to Summary Judgment). Mr. Grice's position with the Department clearly authorizes him to speak for the Department on Certificate of Need issues, and Three Rivers was justified in relying on Mr. Grice's knowledge and position of authority when it made inquiries of him.

Three Rivers in fact made numerous inquiries of the Department regarding the proposed transaction. All of Three Rivers' inquiries were to Department personnel who were in positions of authority with regard to the Department's enforcement of the Certificate of Need program. Despite the numerous exchanges between Three Rivers and the Department, at no time did the Department advise Three Rivers of its unpublished practice that would void Three Rivers' 32-Bed CON if the sales transaction occurred. Instead, the Department determined in writing on December 27, 2006 that Three Rivers, as the licensee, was unaffected by the transaction and that no Certificate of Need review was required under the law. The sale of membership interests in Three Rivers' holding company proceeded in reliance on the Department's determination.

Based on these undisputed facts, I find that, under the principles of estoppel by silence set forth in the Southern Development case, the Department should be estopped from changing its original position that the transaction does not affect the licensee and, therefore, its decision voiding the 32-bed CON must be reversed.

As a final matter, Three Rivers raises the issue of its consolidated appeal of the Department's denial of an extension of the 32-Bed CON. Under S.C. Code Ann. § 1-23-600(G)(2) (Supp. 2006), the decision of the Department to void Three Rivers' 32-Bed CON was stayed upon Three Rivers' filing of a request for contested case review. At the hearing before the Court, Three Rivers indicated that, if the Court granted summary judgment and ordered the Department to reissue the 32-Bed CON in a manner that would place Three Rivers' in the position it occupied prior to the voidance on April 17, 2007, Three Rivers would withdraw its request for review of the Department's decision to deny extension of the 32-Bed CON. Having found in Three Rivers' favor on the Motion for Summary Judgment, the Court accepts Three Rivers' withdrawal of its request for review in Docket No. 07-ALJ-07-420-CC contingent on the Department's reissuance of the 32-Bed CON.

**ORDER**

**IT IS HEREBY ORDERED** that Petitioner's Motion for Summary Judgment is granted and the April 17, 2007 decision of the Department voiding the 32-Bed CON is reversed.

**IT IS FURTHER ORDERED** that the Department shall within ten (10) days of the date of this Order reissue the 32-Bed CON to Three Rivers, such CON to be valid for a period of six (6) months from the date of reissuance.


**IT IS FURTHER ORDERED** that, contingent upon the Department's reissuance of the 32-Bed CON as set forth above, Petitioner's Request for Contested Case Review in Docket No.

07-ALJ-07-420-CC is withdrawn and that matter is hereby dismissed with prejudice.

**IT IS FINALLY ORDERED** that summary judgment having disposed of all remaining issues in Docket No. 07-ALJ-07-256-CC that matter is hereby dismissed.

**AND IT IS SO ORDERED.**

December 5, 2007  
Columbia, South Carolina

  
Marvin F. Kittrell  
Chief Administrative Law Judge

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This is to certify that I have signed here this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 5<sup>th</sup> day of December 2007

By: Bryette B. Aubrey  
Judith L. ...