

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2021 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/8	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/22	2/26	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

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Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates 1

EXECUTIVE ORDERS

Executive Order No. 2021-04 Lowering Flags for Deputy Price of Marion County Sheriff’s Office.....3
 Executive Order No. 2021-05 Lowering Flags for Lance Corporal Melton Gore of the Horry County
 Police Department3
 Executive Order No. 2021-06 Rescinding Suspension of Member of the Board of Trustees of Florence
 School District No. 14
 Executive Order No. 2021-07 State of Emergency5
 Executive Order No. 2021-08 State of Emergency14
 Executive Order No. 2021-09 Removing Director of State Accident Fund.....24

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF
 Certificate of Need25

LABOR, LICENSING AND REGULATION, DEPARTMENT OF
Elevators and Amusement Rides, Office of
 Safety Code for Elevators and Escalators, (ASME) A17.1-2019/CSA B44:19, 2019 Edition28

REVENUE AND FISCAL AFFAIRS OFFICE
Economic Advisors, Board of
 Limit on Compensation for Noneconomic Damages on a Medical Malpractice Claim.....28
 Limit on Punitive Damage Awards29

DRAFTING NOTICES

AERONAUTICS COMMISSION, SOUTH CAROLINA
 Use of the State Aviation Fund; Procedures for Compliance with Land Use in the Vicinity of Airports30

FORESTRY, COMMISSION OF
 Allocation of Forest Tree Seedlings in Short Supply.....30
 General Regulations on South Carolina Forestry Commission Lands.....30
 Hunting and Fishing Regulations on State Forest Lands Established as Wildlife Management Areas31
 Price Changes for Forest Tree Seedlings31

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF
 Emergency Medical Services32

TABLE OF CONTENTS

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Barber Examiners, Board of

Sanitary Rules Governing Barbers, Barber Shops and Barber Colleges 32

Medical Examiners, Board of

Criteria for Physician Supervision of Nurses in Extended Role..... 33

Speech-Language Pathology and Audiology, Board of Examiners in

Licensing Provisions 33

PROPOSED REGULATIONS

DISABILITIES AND SPECIAL NEEDS, DEPARTMENT OF

Document No. 5038 Appeal Procedures 34

Document No. 5040 Eligibility Determination..... 35

Document No. 5041 Recreational Camps for Persons with Intellectual Disability..... 37

Document No. 5039 Research Involving Persons Eligible for Services 39

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 5036 Radioactive Materials (Title A)..... 41

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Funeral Service, Board of

Document No. 5037 Licensing Provisions; and Continuing Education 44

EMERGENCY REGULATIONS

CLEMSON UNIVERSITY

State Crop Pest Commission

Document No. 5035 Asian Longhorned Beetle Quarantine 47

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
 The history, status, and full text of these regulations are available on the
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY	HOUSE COMMITTEE	SENATE COMMITTEE
4952			Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts	05/12/2021	Public Service Commission	Regs and Admin Procedures	Judiciary
4980			Transfers and Withdrawals	05/12/2021	State Board of Education	Regs and Admin Procedures	Education
4981			Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	05/12/2021	State Board of Education	Regs and Admin Procedures	Education
4993			South Carolina Jobs-Economic Development Authority	05/12/2021	SC Jobs-Economic Development Auth	Regs and Admin Procedures	Labor, Commerce and Industry
4982			Records of Charitable Trust	05/12/2021	Attorney General	Regs and Admin Procedures	Judiciary
4983			Fees to Accompany Request for Confirmation of Solicitation Exemption	05/12/2021	Attorney General	Regs and Admin Procedures	Labor, Commerce and Industry
4991			Credential Classification	05/12/2021	State Board of Education	Regs and Admin Procedures	Education
4969			Protection of Consumer Data	05/12/2021	Public Service Commission	Regs and Admin Procedures	Judiciary
4994			Sale or Lease of Renewable Energy Facilities	05/12/2021	Department of Consumer Affairs	Regs and Admin Procedures	Judiciary
4992			Consumer Protection for the Lease of Renewable Energy Generation Facilities	05/12/2021	Office of Regulatory Staff	Regs and Admin Procedures	Judiciary
4975			Hazardous Waste Management Regulations	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
4977			Standards for Licensing Day Care Facilities for Adults	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
4979			Septic Tank Site Evaluation Fees; Onsite Wastewater Systems; License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets; and Licensing of Onsite Wastewater Systems	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
4988			Master Contractors	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
			Role of the Qualified Independent Third-Party Consultant and Expert and the Commissioners' Reliance on the Contents of the Qualified Independent Third-Party Consultant and Expert's Report	05/12/2021	Public Service Commission	Regs and Admin Procedures	Judiciary
4997			Standards for the Permitting of Agricultural Animal Facilities	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Ag and Nat Resources
5007			Regulations for Spotted Turtle; and Exchange and Transfer for Certain Native Reptiles and Amphibians	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5011			Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5003			Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
4995			Statement of Policy; and Specific Project Standards for Tidelands and Coastal Waters	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Fish, Game and Forestry
4970			South Carolina National Guard College Assistance Program	05/12/2021	Commission on Higher Education	Regs and Admin Procedures	Education
5006			South Carolina HOPE Scholarship	05/12/2021	Commission on Higher Education	Regs and Admin Procedures	Education
5004			LIFE Scholarship Program and LIFE Scholarship Enhancement	05/12/2021	Commission on Higher Education	Regs and Admin Procedures	Education
5002			Truck Driver Schools; and Driver Training Schools	05/12/2021	Department of Motor Vehicles	Regs and Admin Procedures	Transportation
4996			Athletic Trainers	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5005			Palmetto Fellows Scholarship Program	05/12/2021	Commission on Higher Education	Regs and Admin Procedures	Education
4984			Board of Architectural Examiners	05/12/2021	LLR-Board of Architectural Examiners	Regs and Admin Procedures	Labor, Commerce and Industry

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4985	Continuing Education; Elections; and Use of Lasers in a Dental Setting	05/12/2021	LLR-Board of Dentistry	Regs and Admin Procedures	Medical Affairs
4986	Election Procedures for the State Board of Medical Examiners and the Medical Disciplinary Commission	05/12/2021	LLR-Board of Medical Examiners	Regs and Admin Procedures	Medical Affairs
4987	Administrator-in-Training Program Requirements	05/12/2021	LLR-Board of LTHC Administrators	Regs and Admin Procedures	Medical Affairs
5008	Fee Schedule for Bulk Licensure Verification	05/12/2021	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
5009	Fees for the Real Estate Appraisers Board	05/12/2021	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
5010	Auctioneers' Commission	05/12/2021	LLR-Auctioneers' Commission	Regs and Admin Procedures	Labor, Commerce and Industry
5012	Board of Registrations for Foresters	05/12/2021	LLR-Board of Registration for Foresters	Regs and Admin Procedures	Fish, Game and Forestry
5013	Recording and Reporting Occupational Injuries and Illnesses	05/12/2021	LLR-OSHA	Regs and Admin Procedures	Labor, Commerce and Industry
5022	Residential Group Care Facilities for Children	05/12/2021	Department of Social Services	Regs and Admin Procedures	Family and Veterans' Services
5023	Licensure for Foster Care	05/12/2021	Department of Social Services	Regs and Admin Procedures	Family and Veterans' Services
5016	Marine Resources Division	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5017	Restrictions on the Use of Watercraft in Certain Areas and No Wake Zones	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5018	Freshwater Fisheries	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5019	Sea Turtle Protection	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5020	Alexander Sprunt, Jr., Wildlife Refuge and Sanctuary	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5021	Boating	05/12/2021	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5024	Fees Assessed by the State Athletic Commission	05/12/2021	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
5025	Fees Assessed by the Auctioneers' Commission	05/12/2021	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
4974	Licensed Midwives	05/12/2021	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5015	Asian Longhorned Beetle Quarantine	01/29/2022	Clemson Univ.-State Crop Pest Comm	Regs and Admin Procedures	Ag and Nat Resources
5028	Term and Universal Life Insurance Reserve Financing	01/31/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance
5029	Credit for Reinsurance	01/31/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance

Executive Order No. 2021-04

WHEREAS, the undersigned has been notified of the passing of Deputy Jonathan David Price of the Marion County Sheriff’s Office, who dutifully served as a law enforcement officer in this State and died in the line of duty; and

WHEREAS, Deputy Price dedicated his life to protecting and serving the people of the State of South Carolina, both with the Marion County Sheriff’s Office and the City of Dillon Police Department, and his loss warrants the people of this State appropriately recognizing his distinguished service and honoring his supreme sacrifice; and

WHEREAS, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of . . . the death of a first responder working in any State, territory, or possession who dies while serving in the line of duty, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff”; and

WHEREAS, section 1-3-470 of the South Carolina Code of Laws, as amended, authorizes the undersigned, on the day of burial or other service for any law enforcement officer in this State who died in the line of duty, to order that all flags on state buildings be lowered to half-staff in tribute to the deceased law enforcement officer and to request that flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Wednesday, January 13, 2021, in tribute to Deputy Price and in honor of his selfless service, remarkable bravery, and supreme sacrifice in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 12th DAY OF JANUARY, 2021.

HENRY MCMASTER
Governor

Executive Order No. 2021-05

WHEREAS, the undersigned has been notified of the passing of Lance Corporal Melton Gore of the Horry County Police Department, who dutifully served as a law enforcement officer in this State and died in the line of duty; and

WHEREAS, Lance Corporal Gore dedicated his life to protecting and serving the people of the State of South Carolina and the residents of Horry County, and his loss warrants the people of this State appropriately recognizing his distinguished service and honoring his supreme sacrifice; and

WHEREAS, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of . . . the death of a first responder working in any State, territory, or possession who dies while serving in the line of duty, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff”; and

4 EXECUTIVE ORDERS

WHEREAS, section 1-3-470 of the South Carolina Code of Laws, as amended, authorizes the undersigned, on the day of burial or other service for any law enforcement officer in this State who died in the line of duty, to order that all flags on state buildings be lowered to half-staff in tribute to the deceased law enforcement officer and to request that flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Wednesday, January 20, 2021, in tribute to Lance Corporal Gore and in honor of his selfless service, remarkable bravery, and supreme sacrifice in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 19th DAY OF JANUARY, 2021.**

HENRY MCMASTER
Governor

Executive Order No. 2021-06

WHEREAS, on November 27, 2019, the undersigned issued Executive Order No. 2019-38, suspending Edward James McIver as a member of the Board of Trustees of Florence School District No. 1, pursuant to article VI, section 8 of the South Carolina Constitution and section 8-1-110 of the South Carolina Code of Laws, as amended, following a Grand Jury convened in Florence County returning an Indictment charging him with one count of Misconduct in Office, in violation of section 8-1-80 of the South Carolina Code of Laws, as amended, and one count of Embezzlement of Public Funds, in violation of section 16-13-210 of the South Carolina Code of Laws, as amended; and

WHEREAS, in accordance with article VI, section 8 of the South Carolina Constitution and section 8-1-110 of the South Carolina Code of Laws, the undersigned's suspension of Edward James McIver was effective immediately and "until such time as he shall be formally acquitted or convicted"; and

WHEREAS, the Solicitor recently notified the undersigned that the above-referenced charges against Edward James McIver have been dismissed and that the aforementioned Indictment has been disposed of by entry of a *nolle prosequi*; and

WHEREAS, under South Carolina law, "a *nolle prosequi* upon charges extinguishes the State's prosecution upon those charges" and "treats charges *nol prossed* as if they never existed," *Mackey v. State*, 357 S.C. 666, 669, 595 S.E.2d 241, 243 (2004); and

WHEREAS, for the foregoing reasons, and in accordance with the cited authorities and other applicable law, the undersigned is required to rescind the suspension of Edward James McIver as a member of the Board of Trustees of Florence School District No. 1.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby rescind Executive Order No. 2019-38 and reinstate Edward James McIver as a member of the Board of Trustees of Florence School District No. 1. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF JANUARY, 2021.

HENRY MCMASTER
Governor

Executive Order No. 2021-07

WHEREAS, the State of South Carolina has taken, and must continue to take, any and all necessary and appropriate actions in confronting and coping with the significant public health threats and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), which now present different, additional, and evolving emergency conditions and circumstances that necessitate the State initiating further coordinated actions and implementing other extraordinary measures to address the same; and

WHEREAS, in preparing for and responding to the threats posed by COVID-19, the State must remain flexible to account for new and distinct circumstances and focus on implementing narrowly tailored emergency measures and expanding interagency coordination and targeted mitigation efforts designed to, *inter alia*, reduce community spread and transmission of COVID-19; minimize the resulting strain on healthcare facilities and resources; address emerging and amplifying issues associated with the nationwide increase in new cases and the impact of, and interplay with, the post-holiday resurgence, winter weather, influenza season, and additional COVID-19 variants; facilitate the safe resumption or continuation of in-person classroom instruction; enhance testing capacity; and accelerate deployment of the required vaccine distribution program to ensure that currently limited supplies are allocated and administered in an equitable and expedited manner; and

WHEREAS, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

6 EXECUTIVE ORDERS

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-65, 2020-67, 2020-70, 2020-72, 2020-75, 2020-77, and 2021-03; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned's request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on May 18, 2020, the undersigned approved and signed Act No. 135 of 2020 (H. 3411, R-140), as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged "the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)" and recognized that "given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus"; *see also* Act No. 133 of 2020 (R-138, S. 635); Act No. 142 of 2020 (R-148, H. 5202); Act No. 143 of 2020 (R-149, H. 5305); Act No. 154 of 2020 (R-170, H. 3210); and

WHEREAS, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating, or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

WHEREAS, on September 24, 2020, the undersigned issued Executive Order No. 2020-63, superseding, rescinding, and replacing Executive Order No. 2020-50 and amending and consolidating certain emergency measures to ensure that any remaining measures were targeted and narrowly tailored to address and mitigate the public health and other threats associated with COVID-19 in the least restrictive manner possible; and

WHEREAS, on November 25, 2020, the undersigned issued Executive Order No. 2020-73, superseding, rescinding, and replacing Executive Order No. 2020-63 and further modifying and amending certain emergency measures to ensure that any remaining initiatives are targeted and narrowly tailored to address the current circumstances and public health and other threats associated with COVID-19; and

WHEREAS, although the above-referenced and other measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an evolving public health threat and now poses different and additional emergency circumstances, which require that the State of South Carolina take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

WHEREAS, as of January 22, 2021, DHEC has identified at least 369,782 confirmed cases of COVID-19 in the State of South Carolina, including 5,791 deaths due to COVID-19; and

WHEREAS, state and federal public health experts and officials across the United States have recently identified significant increases in the number of confirmed cases of COVID-19, and the White House Coronavirus Task Force has noted that the ongoing fall to winter surge of COVID-19 has lasted three times as

long as the spring and summer surges and has involved increases in new cases at nearly twice the rate of cases documented during the spring and summer surges, with many states entering the rapid acceleration phase of viral spread; and

WHEREAS, the White House Coronavirus Task Force has indicated that the aforementioned acceleration in the number of confirmed COVID-19 cases and other epidemiological data suggest there are both new domestic and new international variants of COVID-19, which may be more transmissible and could become predominant, and that states must proactively prepare for and promptly mitigate such increased transmission rates; and

WHEREAS, consistent with the ongoing nationwide surge, South Carolina has recently identified a significant number of new cases of COVID-19, and while the State has experienced a decline in the percentage of positive tests for COVID-19, the number of hospital admissions associated with COVID-19 remain high; and

WHEREAS, following the November and December holidays, the State experienced a significant surge in the number of new cases of COVID-19, and hospitals in South Carolina subsequently reported a corresponding increase in the number of new patients admitted with confirmed or suspected cases of COVID-19; and

WHEREAS, state and federal public health experts and officials have noted that the above-referenced increases in test-positivity rates and the number of COVID-19-related hospitalizations associated with the recent holiday season suggest a significant resurgence of community transmission; and

WHEREAS, in addition to the aforementioned impact of the recent holiday season, public health experts and officials have expressed concerns that winter weather will continue to require people staying indoors, where COVID-19 can spread more easily, and may further increase community transmission of COVID-19; and

WHEREAS, state and federal public health experts and officials have similarly cautioned that influenza season will continue to pose distinct public health concerns and amplify existing threats in the context of COVID-19, as influenza is anticipated to lead to additional hospitalizations, which will further burden healthcare facilities and resources, and it remains possible that individuals could contract influenza and COVID-19 at the same time, which may cause more complications than if influenza were the sole source of infection; and

WHEREAS, according to the latest data from the White House Coronavirus Task Force, all forty-six counties in South Carolina are experiencing moderate or high levels of community transmission of COVID-19, with approximately 96% of the State's counties reporting high levels of community transmission; and

WHEREAS, in light of the foregoing extraordinary circumstances and the resulting strain on healthcare personnel and resources, as well as the simultaneous need for hospitals to expedite the administration of limited initial supplies of COVID-19 vaccines, the undersigned recently requested that hospitals in South Carolina voluntarily reduce elective and non-essential procedures to minimize acute nursing and staff shortages; and

WHEREAS, in addition to rapidly allocating, distributing, and administering the limited initial supplies of COVID-19 vaccines, the State must also continue to expedite and expand COVID-19 testing operations; and

WHEREAS, DHEC has noted that increased testing of both symptomatic and asymptomatic individuals is a critical component in the fight against COVID-19, and the State must focus on maximizing interagency coordination, cooperation, and collaboration to enhance existing capacity and the availability of, and access to, COVID-19 testing; and

WHEREAS, as a result of South Carolina's testing and tracing initiatives, DHEC has also continued to identify additional "hot spots" in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

8 EXECUTIVE ORDERS

WHEREAS, in addition to the foregoing, the State of South Carolina must take additional proactive action to utilize, maximize, and coordinate intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program and to expedite the delivery of recently approved vaccines; and

WHEREAS, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina continue to reopen, in whole or in part, for in-person instruction, it is critically important that the State remain vigilant in addressing COVID-19 by maximizing interagency coordination to facilitate the safe resumption or continuation of classroom instruction while simultaneously implementing measures to minimize the risk of community spread and transmission of COVID-19 in schools and other settings; and

WHEREAS, in light of the foregoing, and due to the continued spread of COVID-19, the significant number of individuals hospitalized in connection with the same, the anticipated impact of recent holidays and future winter weather, and the additional public health concerns associated with influenza season and the emergence of new variants of COVID-19, the State of South Carolina must promptly take any and all necessary and appropriate steps to implement and expand certain mitigation efforts designed to reduce community transmission of COVID-19 and to minimize the resulting strain on healthcare facilities and resources; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to

include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” *Op. Att’y Gen.*, 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, the State of South Carolina has made meaningful progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and now present different and additional threats, which must be dealt with on their own terms and by maximizing interagency coordination, cooperation, and collaboration; and

WHEREAS, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the aforementioned and other different and additional public health threats posed by COVID-19—as well as the need to, *inter alia*, address emerging and amplifying issues associated with the recent holiday season, winter weather, the simultaneous impact of influenza season, and the identification of additional variants of COVID-19; enhance existing testing capacity; facilitate and expedite deployment of the requisite vaccine distribution program to reach targeted populations; and implement and expand other mitigation efforts designed to reduce community transmission and minimize the resulting strain on healthcare facilities and

10 EXECUTIVE ORDERS

resources—“require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

WHEREAS, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status of community spread and transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina seek to resume or continue, in whole or in part, in-person classroom instruction, the State must take additional proactive action and implement certain mitigation efforts designed to reduce and control the spread of COVID-19 and to minimize the impacts associated with the same; and

WHEREAS, it is imperative that the State of South Carolina continue to utilize targeted extraordinary measures and deploy substantial resources to meet the unprecedented threats posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

WHEREAS, in addition to the foregoing, in further proactively preparing for and promptly responding to the spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

WHEREAS, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective “social distancing” practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, new facts and data, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the COVID-19 pandemic, including the different, additional, and evolving threats and risks cited herein, represents and requires the declaration of a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

To prepare for and respond to the new and distinct public health threats posed by COVID-19 and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare

facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and enhance mitigation efforts to reduce community transmission of COVID-19 and implement narrowly tailored extraordinary measures to prepare for, respond to, and address the evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts to facilitate and accelerate the deployment of the required vaccine distribution program and the continued expansion of testing capacity.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

E. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

F. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

G. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

H. I hereby declare that the provisions of Executive Order No. 2020-73 are hereby extended and shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by future Order.

Section 2. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously implementing proactive measures to

12 EXECUTIVE ORDERS

safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must continue to undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 3. Transportation Waivers

To expedite the State of South Carolina's preparation for and response to the new and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended.

B. I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's December 1, 2020 Expansion and Extension of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

14 EXECUTIVE ORDERS

Section 5. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 22nd DAY OF JANUARY, 2021.**

**HENRY MCMASTER
Governor**

Executive Order No. 2021-08

WHEREAS, the State of South Carolina has taken, and must continue to take, any and all necessary and appropriate actions in confronting and coping with the significant public health threats and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), which now present different, additional, and evolving emergency conditions and circumstances that necessitate the State initiating further coordinated actions and implementing other extraordinary measures to address the same; and

WHEREAS, in preparing for and responding to the threats posed by COVID-19, the State must remain flexible to account for new and distinct circumstances and focus on implementing narrowly tailored emergency measures and expanding interagency coordination and targeted mitigation efforts designed to, *inter alia*, reduce community spread and transmission of COVID-19; minimize the resulting strain on healthcare facilities and resources; address emerging and amplifying issues associated with the nationwide increase in new cases and the impact of, and interplay with, the post-holiday resurgence, winter weather, influenza season, and the recent detection of two new COVID-19 variants in the State and the potential emergence of additional COVID-19 variants; facilitate the safe resumption or continuation of in-person classroom instruction; enhance testing capacity; and accelerate deployment of the required vaccine distribution program to ensure that currently limited supplies are allocated and administered in an equitable and expedited manner; and

WHEREAS, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and

regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-65, 2020-67, 2020-70, 2020-72, 2020-75, 2020-77, 2021-03, and 2021-07; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on May 18, 2020, the undersigned approved and signed Act No. 135 of 2020 (H. 3411, R-140), as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; *see also* Act No. 133 of 2020 (R-138, S. 635); Act No. 142 of 2020 (R-148, H. 5202); Act No. 143 of 2020 (R-149, H. 5305); Act No. 154 of 2020 (R-170, H. 3210); and

WHEREAS, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating, or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

WHEREAS, on September 24, 2020, the undersigned issued Executive Order No. 2020-63, superseding, rescinding, and replacing Executive Order No. 2020-50 and amending and consolidating certain emergency measures to ensure that any remaining measures were targeted and narrowly tailored to address and mitigate the public health and other threats associated with COVID-19 in the least restrictive manner possible; and

16 EXECUTIVE ORDERS

WHEREAS, on November 25, 2020, the undersigned issued Executive Order No. 2020-73, superseding, rescinding, and replacing Executive Order No. 2020-63 and further modifying and amending certain emergency measures to ensure that any remaining initiatives are targeted and narrowly tailored to address the current circumstances and public health and other threats associated with COVID-19; and

WHEREAS, although the above-referenced and other measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an evolving public health threat and now poses different and additional emergency circumstances, which require that the State of South Carolina take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

WHEREAS, as of February 6, 2021, DHEC has identified at least 410,639 confirmed cases of COVID-19 in the State of South Carolina, including 6,816 deaths due to COVID-19; and

WHEREAS, state and federal public health experts and officials across the United States have recently identified significant increases in the number of confirmed cases of COVID-19, and the White House Coronavirus Task Force has noted that the ongoing fall to winter surge of COVID-19 has lasted three times as long as the spring and summer surges and has involved increases in new cases at nearly twice the rate of cases documented during the spring and summer surges, with many states entering the rapid acceleration phase of viral spread; and

WHEREAS, the White House Coronavirus Task Force has indicated that the aforementioned acceleration in the number of confirmed COVID-19 cases and other epidemiological data suggest there are both new domestic and new international variants of COVID-19, which may be more transmissible and could become predominant, and that states must proactively prepare for and promptly mitigate such increased transmission rates; and

WHEREAS, DHEC recently announced the detection of the first cases in South Carolina associated with two new variants of COVID-19 that first emerged in the United Kingdom and South Africa; and

WHEREAS, consistent with the ongoing nationwide surge, South Carolina has recently identified a significant number of new cases of COVID-19, and while the State has experienced a decline in the percentage of positive tests for COVID-19, the number of hospital admissions associated with COVID-19 remain high; and

WHEREAS, state and federal public health experts and officials have noted that the above-referenced data regarding test-positivity rates and the number of COVID-19-related hospitalizations associated with the recent holiday season suggest a significant resurgence of community transmission; and

WHEREAS, in addition to the aforementioned impact of the recent holiday season, public health experts and officials have expressed concerns that winter weather will continue to require people staying indoors, where COVID-19 can spread more easily, and may further increase community transmission of COVID-19; and

WHEREAS, state and federal public health experts and officials have similarly cautioned that influenza season will continue to pose distinct public health concerns and amplify existing threats in the context of COVID-19, as influenza is anticipated to lead to additional hospitalizations, which will further burden healthcare facilities and resources, and it remains possible that individuals could contract influenza and COVID-19 at the same time, which may cause more complications than if influenza were the sole source of infection; and

WHEREAS, according to the latest data from the White House Coronavirus Task Force, all forty-six counties in South Carolina are experiencing high levels of community transmission of COVID-19; and

WHEREAS, in light of the foregoing extraordinary circumstances and the resulting strain on healthcare personnel and resources, as well as the simultaneous need for hospitals to expedite the administration of limited initial supplies of COVID-19 vaccines, the undersigned recently requested that hospitals in South Carolina voluntarily reduce elective and non-essential procedures to minimize acute nursing and staff shortages; and

WHEREAS, in addition to rapidly allocating, distributing, and administering the limited initial supplies of COVID-19 vaccines, the State must also continue to expedite and expand COVID-19 testing operations; and

WHEREAS, DHEC has noted that increased testing of both symptomatic and asymptomatic individuals is a critical component in the fight against COVID-19, and the State must focus on maximizing interagency coordination, cooperation, and collaboration to enhance existing capacity and the availability of, and access to, COVID-19 testing; and

WHEREAS, as a result of South Carolina’s testing and tracing initiatives, DHEC has also continued to identify additional “hot spots” in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

WHEREAS, in addition to the foregoing, the State of South Carolina must take additional proactive action to utilize, maximize, and coordinate intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program and to expedite the delivery of recently approved vaccines; and

WHEREAS, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina continue to reopen, in whole or in part, for in-person instruction, it is critically important that the State remain vigilant in addressing COVID-19 by maximizing interagency coordination to facilitate the safe resumption or continuation of classroom instruction while simultaneously implementing measures to minimize the risk of community spread and transmission of COVID-19 in schools and other settings; and

WHEREAS, in light of the foregoing, and due to the continued spread of COVID-19, the significant number of individuals hospitalized in connection with the same, the anticipated impact of recent holidays and future winter weather, and the additional public health concerns associated with influenza season and the emergence of new variants of COVID-19, the State of South Carolina must promptly take any and all necessary and appropriate steps to implement and expand certain mitigation efforts designed to reduce community transmission of COVID-19 and to minimize the resulting strain on healthcare facilities and resources; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

18 EXECUTIVE ORDERS

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” *Op. Att’y Gen.*, 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, the State of South Carolina has made meaningful progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and now present different and additional threats, which must be dealt with on their own terms and by maximizing interagency coordination, cooperation, and collaboration; and

WHEREAS, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the aforementioned and other different and additional public health threats posed by COVID-19—as well as the need to, *inter alia*, address emerging and amplifying issues associated with the recent holiday season, winter weather, the simultaneous impact of influenza season, and the detection of two new variants of COVID-19 in the State and the potential emergence of additional variants of COVID-19; enhance existing testing capacity; facilitate and expedite deployment of the requisite vaccine distribution program to reach targeted populations; and implement and expand other mitigation efforts designed to reduce community transmission and minimize the resulting strain on healthcare facilities and resources—“require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

WHEREAS, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status of community spread and transmission of COVID-19 in the State and the recent detection of cases associated with two new variants of COVID-19 in South Carolina represent the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina seek to resume or continue, in whole or in part, in-person classroom instruction, the State must take additional proactive action and implement certain mitigation efforts designed to reduce and control the spread of COVID-19 and to minimize the impacts associated with the same; and

WHEREAS, it is imperative that the State of South Carolina continue to utilize targeted extraordinary measures and deploy substantial resources to meet the unprecedented threats posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

WHEREAS, in addition to the foregoing, in further proactively preparing for and promptly responding to the spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

WHEREAS, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective

20 EXECUTIVE ORDERS

“social distancing” practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, new facts and data, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the COVID-19 pandemic, including the different, additional, and evolving threats and risks cited herein, represents and requires the declaration of a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

To prepare for and respond to the new and distinct public health threats posed by COVID-19 and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and enhance mitigation efforts to reduce community transmission of COVID-19 and implement narrowly tailored extraordinary measures to prepare for, respond to, and address the evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts to facilitate and accelerate the deployment of the required vaccine distribution program and the continued expansion of testing capacity.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

E. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the

Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

F. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

G. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

H. I hereby declare that the provisions of Executive Order No. 2020-73 are hereby extended and shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by future Order.

Section 2. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously implementing proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must continue to undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 3. Transportation Waivers

To expedite the State of South Carolina’s preparation for and response to the new and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended.

B. I hereby authorize and direct the South Carolina Department of Transportation (“DOT”) and the South Carolina Department of Public Safety (“DPS”), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety

22 EXECUTIVE ORDERS

Administration's December 1, 2020 Expansion and Extension of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 5. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 6th DAY OF FEBRUARY, 2021.**

**HENRY MCMASTER
Governor**

24 EXECUTIVE ORDERS

Executive Order No. 2021-09

WHEREAS, section 1-3-240(B) of the South Carolina Code of Laws, as amended, states that “[a] person appointed to a state office by the Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer”; and

WHEREAS, section 42-7-10(A) of the South Carolina Code of Laws, as amended, establishes the State Accident Fund “as a separate agency of state government”; and

WHEREAS, section 42-7-20 of the South Carolina Code of Laws, as amended, provides, in pertinent part, that “[t]he State Accident Fund shall be administered by a director appointed by the Governor for a term of six years with the advice and consent of the Senate”; and

WHEREAS, the director of the State Accident Fund is an office of the State that is not among those officers or offices enumerated or otherwise listed in subsection (C) of section 1-3-240 of the South Carolina Code of Laws; and

WHEREAS, Amy V. Cofield was previously appointed by the Governor, with the advice and consent of the Senate, to serve as director of the State Accident Fund; and

WHEREAS, for the foregoing reasons, and in accordance with the cited authorities and other applicable law, the undersigned is authorized to remove the director of the State Accident Fund from office at his discretion and to declare a vacancy in such office.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby remove Amy V. Cofield from the office of director of the State Accident Fund and declare a vacancy in said office, which shall be filled as provided by law. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 8th DAY OF FEBRUARY, 2021.**

**HENRY MCMASTER
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **February 26, 2021** for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at coninfo@dhec.sc.gov.

Affecting Anderson County**AnMed Health d/b/a AnMed Health Medical Center**

Transfer of 72 acute care beds from AnMed Health Women's & Children's Hospital to AnMed Health Medical Center for a total of 495 acute care beds at a total project cost of \$14,758,778.

Affecting Chester County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Chester County at a total project cost of \$69,686.

Affecting Chesterfield County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Chesterfield County at a total project cost of \$69,686.

Affecting Dorchester County**Trident Medical Center, LLC d/b/a Summerville Medical Center**

Purchase of a da Vinci Robotic surgical system at a total project cost of \$1,800,000.

Affecting Horry County**McLeod Loris Seacoast Hospital d/b/a McLeod Health Seacoast**

Purchase of a da Vinci Xi Robotic Surgical system at a total project cost of \$2,481,268.

McLeod Loris Seacoast Hospital d/b /a McLeod Health Seacoast

Acquisition of MRI with a 3.0T Magnet at a total project cost of \$3,038,620.

Affecting Lancaster County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Lancaster County at a total project cost of \$69,686.

Affecting Oconee County**Prisma Health-Upstate Oconee Memorial Hospital**

Purchase of a da Vinci Robotic Surgical system at a total project cost of \$2,276,000.

Affecting Pickens County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Pickens County at a total project cost of \$69,686.

Affecting Richland County**Carolina Healthcare Facilities, LLC d/b/a The Plastic Surgery Center**

26 NOTICES

Renovation of the existing space for the for the establishment of a 3,854-sf ambulatory surgery facility with 2 ORs specializing in Aesthetic and Reconstructive surgery at a total project cost of \$450,573.

Affecting York County

Excel Home Care LLC

Establishment of a Home Health agency to serve York County at a project cost of \$4350.

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in York County at a total project cost of \$69,686.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **February 26, 2021**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200 or email coninfo@dhec.sc.gov.

Affecting Beaufort County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Beaufort County at a total project cost of \$69,686.

Affecting Berkeley County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Berkeley County at a total project cost of \$69,686.

Affecting Charleston County

Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center

Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

Affecting Clarendon

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Clarendon County at a total project cost of \$69,686.

Affecting Darlington County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Darlington County at a total project cost of \$69,686.

Affecting Dillon County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Dillon County at a total project cost of \$69,686.

Affecting Dorchester County

Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Dorchester County at a total project cost of \$69,686.

Affecting Kershaw County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Kershaw County at a total project cost of \$69,686.

Affecting Greenville County**Prisma Health d/b/a Prisma Health Patewood Outpatient Surgery Center**

Renovation of existing ambulatory surgery center for the addition of 6 OR's for a total of 12 OR's at a total project cost of \$18,764,740.

Prisma Health d/b/a Prisma Health Centennial Outpatient Surgery Center

Construction for the establishment of an ambulatory surgery center including 6 OR's at a total project cost of \$25,598,880.

Millennium ASC, LLC d/b/a Millennium ASC

Construction for the establishment of a 34,700-sf ambulatory surgery center including 6 OR's and 2 endoscopy rooms at a total project cost of \$38,678,597.

Affecting Horry County**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Renovation of an existing facility for the construction of a new patient bed tower and addition of 52 acute care beds at a total project cost of \$67,563,251.

Pathway Treatment Center, LLC

Construction for the establishment of an Opioid Treatment Program (OTP) at a total project cost of \$141,898,00.

Affecting Laurens County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Laurens County at a total project cost of \$69,686.

Affecting Oconee County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Oconee County at a total project cost of \$69,686.

Affecting Spartanburg County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Spartanburg County at a total project cost of \$69,686.

Affecting Sumter County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Sumter County at a total project cost of \$69,686.

Affecting Union County**Intrathecal Care Solutions, LLC d/b/a Advanced Nursing Solutions**

Establishment of a Specialty Home Health Agency limited to home infusion nursing services in Union County at a total project cost of \$69,686.

28 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF ELEVATORS AND AMUSEMENT RIDES

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation intends to adopt the latest edition of the following nationally recognized code as set forth herein below:

1. Safety Code for Elevators and Escalators, (ASME) A17.1-2019/CSA B44:19, 2019 edition. The latest version of the code was approved October 18, 2019, and issued December 31, 2019, with an effective date of June 30, 2020.

2. The Safety Code for Elevators and Escalators was originally adopted in this state in July 1, 1986. The current version of the code, the Safety Standards for Elevators and Escalators, (ASME) A17.1-2013/CSA B44-13, 2013 edition, was published on October 21, 2013, and became effective on April 21, 2014, with the exceptions of Requirements 8.10.1.1.3 and 8.11.1.1, which became effective immediately. The Department adopted the Code on or about December 28, 2014.

3. The original promulgating authority for this code is:
The American Society of Mechanical Engineers (ASME)
22 Law Drive/Box 2300
Fairfield, New Jersey 07007-2300

4. This code is referenced by:
South Carolina Code of Laws, Sections 41-16-10 et seq., and specifically in South Carolina Code of Laws, Section 41-16-40(2).
Elevator Safety Regulations 71-5100(1).

The Department of Labor, Licensing and Regulation specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Duane Scott by mail at 110 Centerview Drive, Columbia, SC 29210, by fax at 803-896-7650, or by email to duane.scott@llr.sc.gov.

If no comments are received within thirty (30) days of publication of this notice, the Department of Labor, Licensing and Regulation will promulgate this latest edition as stated without amendment.

REVENUE AND FISCAL AFFAIRS OFFICE BOARD OF ECONOMIC ADVISORS

NOTICE OF GENERAL PUBLIC INTEREST

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to § 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor, Bureau of Labor Statistics as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year of 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2020, the index increased by 36.9 percent from a value of 190.3 in December 2004 to 260.474 in December 2020. With this inflation factor, the limit against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered increases to \$479,064. Also, the limit against all health care providers and all health care institutions

for each claimant for civil liability for noneconomic damages on medical malpractice claims increases to \$1,437,192. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to §1-23-40(2).

**REVENUE AND FISCAL AFFAIRS OFFICE
BOARD OF ECONOMIC ADVISORS**

NOTICE OF GENERAL PUBLIC INTEREST

We have calculated the increase in the limit on punitive damages awarded to each claimant that is entitled to an award. Pursuant to Section 15-32-530(D), the limit on these awards is adjusted each calendar year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor, Bureau of Labor Statistics as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year of 2010. The 2010 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2020, the index increased by 18.8 percent from a value of 219.179 in December 2010 to 260.474 in December 2020. With this inflation factor, the limit increases to \$586,220. The adjusted limitation on an award for punitive damages becomes effective upon publication in the *State Register* pursuant to § 1-23-40(2).

30 DRAFTING NOTICES

SOUTH CAROLINA AERONAUTICS COMMISSION CHAPTER 4

Statutory Authority: 1976 Code Sections 55-1-1 et seq.,
particularly Sections 55-5-80(N) and 55-5-280(D)

Notice of Drafting:

The South Carolina Aeronautics Commission proposes to draft regulations addressing the use of the State Aviation Fund and the operation and administration of the airport land use program by the Commission and the Division of Aeronautics. Interested parties are invited to present their views in writing to James Stephens, Executive Director, South Carolina Aeronautics Commission, 2553 Airport Blvd., West Columbia, South Carolina, 29170-2142. To be considered, comments must be received no later than 5:00 p.m. on March 31, 2021, the close of the drafting comment period.

Synopsis:

The South Carolina Aeronautics Commission is charged by Title 55 of the South Carolina Code of Laws, as amended, with the administration of the State Aviation Fund. The Commission seeks to draft and submit for approval regulations that enumerate and clarify existing procedures regarding land use requirements affecting airports in South Carolina.

This regulation will require legislative review.

COMMISSION OF FORESTRY CHAPTER 55

Statutory Authority: 1976 Code Section 48-23-200

Notice of Drafting:

The South Carolina Forestry Commission proposes to repeal Regulation 55-10, Allocation of Forest Tree Seedlings in Short Supply. Interested persons may submit comments to Tim Adams, Program Manager, South Carolina Forestry Commission, 5500 Broad River Road, Columbia, South Carolina 29212. To be considered, all comments must be received no later than 5:00 p.m. on March 29, 2021.

Synopsis:

The Forestry Commission has recently entered into a partnership with a private company for the production and sale of forest tree seedlings and this regulation is no longer applicable and needs to be repealed.

Legislative Review of this amendment is required.

COMMISSION OF FORESTRY CHAPTER 55

Statutory Authority: 1976 Code Section 48-23-200

Notice of Drafting:

The South Carolina Forestry Commission proposes to amend Regulation 55-1, General Regulations on South Carolina Forestry Commission Lands. Interested persons may submit comments to Mike Shealy, Program Manager, South Carolina Forestry Commission, 5500 Broad River Road, Columbia, South Carolina 29212. To be considered, all comments must be received no later than 5:00 p.m. on March 29, 2021.

Synopsis:

This amendment updates and clarifies language and will establish precedence, eliminating conflicting regulations between the Forestry Commission and other agencies.

Legislative Review of this amendment is required.

COMMISSION OF FORESTRY

CHAPTER 55

Statutory Authority: 1976 Code Section 48-23-200

Notice of Drafting:

The South Carolina Forestry Commission proposes to amend Regulation 55-6, Hunting and Fishing Regulations on State Forest Lands Established as Wildlife Management Areas. Interested persons may submit comments to Mike Shealy, Program Manager, South Carolina Forestry Commission, 5500 Broad River Road, Columbia, South Carolina 29212. To be considered, all comments must be received no later than 5:00 p.m. on March 29, 2021.

Synopsis:

This amendment removes obsolete language and updates language to clarify precedence and eliminate conflicting regulations between the Forestry Commission and other agencies.

Legislative Review of this amendment is required.

COMMISSION OF FORESTRY

CHAPTER 55

Statutory Authority: 1976 Code Section 48-23-200

Notice of Drafting:

The South Carolina Forestry Commission proposes to amend Regulation 55-11, Price Changes for Forest Tree Seedlings, to clarify the calculation cost of production for forest tree seedlings and the locations of annual price lists. Interested persons may submit comments to Tim Adams, Program Manager, South Carolina Forestry Commission, 5500 Broad River Road, Columbia, South Carolina 29212. To be considered, all comments must be received no later than 5:00 p.m. on March 29, 2021.

Synopsis:

This regulation will be amended to clarify the use of only direct costs in the calculation of the cost of production for forest tree seedlings as well as update the locations of annual seedling price lists.

Legislative Review of this amendment is required.

32 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-61-10 et seq., 44-78-10 et seq., and 44-80-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-7, Emergency Medical Services. Interested persons may submit comment(s) on the proposed amendments to the Bureau of EMS and Trauma; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; HQRegs@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on March 29, 2021, the close of the Notice of Drafting comment period.

Synopsis:

Pursuant to S.C. Code Sections 44-61-10 et seq., the Department develops standards and promulgates regulations for the improvement of emergency medical services. The Department proposes amending R.61-7, Emergency Medical Services, to update and revise definitions and requirements regarding obtaining licensure, inspections, personnel, enforcement, ambulance permits, training, vehicles, medical equipment, patient care, Do Not Resuscitate Orders, record maintenance and retention, and licensure standards. The Department may add language to incorporate current provider-wide exceptions applicable to emergency medical services and to address Physician Orders for Scope of Treatment forms.

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.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF BARBER EXAMINERS CHAPTER 17

Statutory Authority: 1976 Code Sections 40-7-50 and 40-7-60

Notice of Drafting:

The South Carolina Board of Barber Examiners proposes to amend R.17-50, regarding sanitary rules governing barbers, barber shops and barber colleges, to prohibit animals, other than service animals, in barber shops. Interested persons may submit comments to Theresa Brown, Administrator, Board of Barber Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Board of Barber Examiners proposes to amend R.17-50, regarding sanitary rules governing barbers, barber shops and barber colleges, to prohibit animals, other than service animals, in barber shops.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS**

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70 and 40-47-10(I)(3)

Notice of Drafting:

The South Carolina Board of Medical Examiners proposes to repeal R.81–110, regarding criteria for physician supervision of nurses in extended role. Interested persons may submit comments to Sheridan Spoon, Administrator, Board of Medical Examiners, Post Office Box 11329, Columbia, S.C. 29211-1139.

Synopsis:

The South Carolina Board of Medical Examiners proposes to repeal R.81–110, regarding criteria for physician supervision of nurses in extended role.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY**

CHAPTER 115

Statutory Authority: 1976 Code Sections 40-1-70 and 40-67-70

Notice of Drafting:

The South Carolina Board of Examiners in Speech-Language Pathology and Audiology proposes to amend R.115-1, 115-2, 115-3, and 115-4. Interested persons may submit comments to Mack Williams, Administrator, Board of Examiners in Speech-Language Pathology and Audiology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Examiners in Speech-Language Pathology and Audiology proposes to amend R.115-1, 115-2, 115-3, and 115-4.

Legislative review of this amendment is required.

34 PROPOSED REGULATIONS

Document No. 5038
DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
CHAPTER 88
Statutory Authority: 1976 Code Section 44-20-220

Article 7. Appeal Procedures. (New)

Preamble:

The Department of Disabilities and Special Needs proposes to add Article 7 to provide the procedure for the appeals of adverse decisions within the scope of state funded services provided by the Department of Disabilities and Special Needs. Specific sections added are Regulations 88-705, Definitions; 88-710, Appeals; and 88-715, Appeal Procedures.

Section-by-Section Discussion

88-705. Definitions. New.

88-710. Appeals. New.

A. Describes decisions that may be appealed. New.

88-715. Appeal Procedures. New.

A. Details steps for applicants filing appeals. New.

B. Details administrative process for the Department. New.

A Notice of Drafting was published in the *State Register* on December 25, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on April 15, 2021, thirty minutes after the adjournment of the regular Commission meeting. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., March 29, 2021. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OR REGULATION:

Purpose: This article is added to ensure that citizens who apply for eligibility for state funded services through the Department of Disabilities and Special Needs, or are denied eligibility or services, have services reduced, suspended, or terminated are aware of appeal procedures for adverse decisions in the scope of state funded services.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

Statement of Rationale:

These regulations are added to clarify and state Department procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5040
DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
CHAPTER 88
Statutory Authority: 1976 Code Section 44-20-220

Article 5. Eligibility Determination. (New)

Preamble:

The Department of Disabilities and Special Needs proposes to add Article 5 to provide the procedure establishing eligibility within the scope of state funded services provided by the Department of Disabilities and Special Needs.

Section-by-Section Discussion

88-505. General. New.

88-510. Definitions Used in this Article. New.

36 PROPOSED REGULATIONS

88-515. Diagnostic Criteria for Department Eligibility. New.

A. Intellectual Disability. New.

B. Related Disability. New.

C. High-Risk Infant/At Risk Child. New.

D. Autism Spectrum Disorder. New.

E. Head and Spinal Cord Injury and Similar Disability. New.

88-520. Time Limitations. New.

A Notice of Drafting was published in the *State Register* on December 25, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on April 15, 2021, thirty minutes after the adjournment of the regular Commission meeting. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., March 29, 2021. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: This article is added to provide the procedure establishing eligibility within the scope of state funded services provided by the Department of Disabilities and Special Needs.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

Statement of Rationale:

These regulations are added to clarify and state Department procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5041
DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
CHAPTER 88
Statutory Authority: 1976 Code Section 44-20-220

Article 3. Recreational Camps for Persons with Intellectual Disability.

Preamble:

The Department of Disabilities and Special Needs proposes to amend Article 3 by repealing the Article as it is obsolete in its entirety.

Section-by-Section Discussion

Article 3. Repeal in its entirety.

A Notice of Drafting was published in the *State Register* on December 25, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on April 15, 2021, thirty minutes after the adjournment of the regular Commission meeting. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., March 29, 2021. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

38 PROPOSED REGULATIONS

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: This article is repealed to delete obsolete programs referred to in the code of regulations Chapter 88.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not repealed in this State.

Statement of Rationale:

These regulations are repealed to clarify and state Department roles and procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5039
DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
 CHAPTER 88
 Statutory Authority: 1976 Code Section 44-20-220

Article 8. Research Involving Persons Eligible for Services. (New)

Preamble:

The Department of Disabilities and Special Needs proposes to add Article 8 to provide for establishing procedures for research involving persons eligible for services through the Department of Disabilities and Special Needs. Specific sections added are Regulations 88-805, Definitions; 88-810, Review and Approval of Research Proposals; 88-815, Protection of Rights and Welfare of Research Participants; and 88-820, Publications.

Section-by-Section Discussion

88-805. Definitions. New.

88-810. Review and Approval of Research Proposals. New.

A. Describes the members and functions of the Research Review Committee

88-815. Protection of Rights and Welfare of Research Participants. New.

A. The scientific, legal, and ethical principles

B. Qualified professionals

C. No physical harm or psychological or emotional impairment

D. Avoid pain, suffering or inconvenience

E. Consent forms

F. Confidentiality statements

G. Federal Regulation 45 CFR 46

H. Concerns and complaints

88-820. Publications. New.

A. Copies of the research

B. Prior to submission for publication

C. Approval

D. Statement

A Notice of Drafting was published in the *State Register* on December 25, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on April 15, 2021, thirty minutes after the adjournment of the regular Commission meeting. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., March 29, 2021. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

40 PROPOSED REGULATIONS

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: This article is added to provide the procedure establishing procedures for research involving persons eligible for services through the Department of Disabilities and Special Needs

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

Statement of Rationale:

These regulations are added to clarify and state Department procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5036
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
 Statutory Authority: 1976 Code Sections 13-7-40 et seq.

61-63. Radioactive Materials (Title A).

Preamble:

Pursuant to S.C. Code Sections 13-7-40 et seq., the Department of Health and Environmental Control (“Department”) is responsible for regulatory and licensing standards, disposal, use, reports, storage, and inspections relating to various uses of radioactive materials. The Department proposes amending R.61-63 to incorporate federal law as required to maintain South Carolina’s status with the United States Nuclear Regulatory Commission (“NRC”) as an Agreement State.

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

The Department had a Notice of Drafting published in the October 23, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Specific Table of Contents sections amended to reflect proposed revisions in the regulation text.

- RHA 1.13 amended to comply with RATS ID: 2018-2, 10 CFR 37.7(a) and RATS ID: 2019-2, 10 CFR 71.17(c)(3)
- RHA 2.7 amended to comply with RATS ID: 2018-1, 10 CFR 32.72
- RHA 2.10.8 amended to comply with RATS ID: 2018-1, 10 CFR 30.34(g)
- RHA 2.10.10 added to comply with RATS ID: 2018-2, 10 CFR 70.32
- RHA 2.22 amended to comply with RATS ID: 2018-2, 10 CFR 71.97 and RATS ID: 2018-3, 10 CFR 71.97(c)(3)
- RHA 4.2 amended to comply with NRC RATS ID: 2018-1, 10 CFR 35.2
- RHA 4.7 amended to comply with RATS ID: 2018-1, 10 CFR 35.12
- RHA 4.8 amended to comply with RATS ID: 2018-1, 10 CFR 35.13
- RHA 4.9 amended to comply with RATS ID: 2018-1, 10 CFR 35.14
- RHA 4.10 amended to comply with RATS ID: 2018-1, 10 CFR 35.15
- RHA 4.13 amended to comply with RATS ID: 2018-1, 10 CFR 35.15
- RHA 4.17 amended to comply with RATS ID: 2018-1, 10 CFR 35.40
- RHA 4.18 amended to comply with RATS ID: 2018-1, 10 CFR 35.41
- RHA 4.20 amended to comply with RATS ID: 2018-1, 10 CFR 35.50
- RHA 4.21 amended to comply with RATS ID: 2018-1, 10 CFR 35.51
- RHA 4.22 amended to comply with RATS ID: 2018-1, 10 CFR 35.55
- RHA 4.23 amended to comply with RATS ID: 2018-1, 10 CFR 35.57
- RHA 4.28 amended to comply with RATS ID: 2018-1, 10 CFR 35.65
- RHA 4.35 amended to comply with RATS ID: 2018-1, 10 CFR 3.65 and RATS ID: 2018-2, 10 CFR 37.77
- RHA 4.36 amended to comply with RATS ID: 2018-1, 10 CFR 35.190
- RHA 4.38 amended to comply with RATS ID: 2018-1, 10 CFR 35.204
- RHA 4.39 amended to comply with RATS ID: 2018-1, 10 CFR 35.290
- Title of Subpart E amended to comply with RATS ID 2018-1
- RHA 4.40 amended to comply with RATS ID: 2018-1, 10 CFR 35.300
- RHA 4.43 amended to comply with RATS ID: 2018-1, 10 CFR 35.390
- RHA 4.43.3 amended to comply with RATS ID: 2018-1, 10 CFR 35.396
- RHA 4.44 amended to comply with RATS ID: 2018-1, 10 CFR 35.392
- RHA 4.45 amended to comply with RATS ID: 2018-1, 10 CFR 35.394
- RHA 4.46 amended to comply with RATS ID: 2018-1, 10 CFR 35.400

42 PROPOSED REGULATIONS

RHA 4.52 amended to comply with RATS ID: 2018-1, 10 CFR 35.433
RHA 4.54 amended to comply with RATS ID: 2018-1, 10 CFR 35.490
RHA 4.55 amended to comply with RATS ID: 2018-1, 10 CFR 35.491
RHA 4.56 amended to comply with RATS ID: 2018-1, 10 CFR 35.500
RHA 4.57 amended to comply with RATS ID: 2018-1, 10 CFR 35.590
RHA 4.58 amended to comply with RATS ID: 2018-1, 10 CFR 35.600
RHA 4.61 amended to comply with RATS ID: 2018-1, 10 CFR 35.610
RHA 4.72 amended to comply with RATS ID: 2018-1, 10 CFR 35.655(a)
RHA 4.74 amended to comply with RATS ID: 2018-1, 10 CFR 35.690
RHA 4.89 amended to comply with RATS ID: 2018-1, 10 CFR 35.2024
RHA 4.102 amended to comply with RATS ID: 2018-1, 10 CFR 35.2310
RHA 4.116 amended to comply with RATS ID: 2018-1, 10 CFR 35.2655
RHA 4.117 amended to comply with RATS ID: 2018-1, 10 CFR 35.3045 and RATS ID: 2020-2, 10 CFR 35.3045(g)(1)(ii)
RHA 4.118 amended to comply with RATS ID: 2020-2, 10 CFR 35.3047(f)(1)(ii)
RHA 4.120 amended to comply with RATS ID: 2018-1, 10 CFR 35.3204
RHA 5.14 amended to comply with RATS ID: 2020-1, 10 CFR 34.47
RHA 5.14.7.3 amended to comply with RATS ID: 2020-1, 10 CFR 34.83
RHA 8.21 amended to comply with RATS ID: 2020-1, 10 CFR 39.65
RHA 11.20 amended to comply with RATS ID: 2020-1, 10 CFR 36.55
RHA 12.5 amended to comply with RATS ID: 2018-3, 10 CFR 37.23(b)(2)
RHA 12.5.2.2 amended to comply with RATS ID: 2019-1, 10 CFR 37.23(b)(2)
RHA 12.7 amended to comply with RATS ID: 2019-1, 10 CFR 37.27(c)(1) and (2)
RHA 12.12 amended to comply with RATS ID: 2018-3, 10 CFR 37.43(b)(2)
RHA 12.23 amended to comply with RATS ID: 2018-3, 10 CFR 37.77(a)(1)

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; HQRegs@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on March 29, 2021, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the amendments during its May 13, 2021, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. Because of ongoing COVID-19 concerns, interested persons who do not wish to appear in person may participate in the public hearing by calling in through an assigned conference line. These participants may register in advance by visiting the DHEC Events webpage (www.scdhec.gov/events) and selecting the appropriate Board meeting date. A link to register will be provided on the accompanying meeting information page. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

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: 61-63, Radioactive Materials (Title A).

Purpose: The Department proposes amending R.61-63 to incorporate federal law as required to maintain South Carolina's status with the United States Nuclear Regulatory Commission ("NRC") as an Agreement State.

Legal Authority: 1976 Code Sections 13-7-40 et seq.

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

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

The proposed amendments are required to be implemented for South Carolina to maintain its status through the NRC as an Agreement State and to ensure compatibility with federal regulations as required by Section 274 of the Atomic Energy Act of 1954. The proposed amendments include revisions to medical event definitions, training and experience, individual monitoring devices, social security number fraud prevention, and general overall clarifications, miscellaneous corrections, and organization.

DETERMINATION OF COSTS AND BENEFITS:

Neither the state nor its political subdivisions will incur additional costs through implementation of these proposed amendments. Existing staff and resources will be utilized to implement the proposed revisions to the regulation. The proposed amendments will not create any significant additional cost to the regulated community since requirements or changes to the regulations will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These amendments seek to ensure an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation.

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

There is no anticipated detrimental effect on the environment.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

44 PROPOSED REGULATIONS

Document No. 5037

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF FUNERAL SERVICE
CHAPTER 57**

Statutory Authority: 1976 Code Sections 40-1-70, 40-19-60, and 40-19-70

57-06.1. Apprenticeship Requirements.

57-08. Licensure by Endorsement.

57-09. Provisions for Biennial Renewal of Licenses and Reactivation of Expired Licenses.

57-10. Provisions for Permitting of Funeral Establishments.

57-11. Continuing Education Requirements for Embalmers and Funeral Directors.

57-13. Code of Ethics.

57-13.2. Websites. (New)

Preamble:

The South Carolina Board of Funeral Service proposes to amend: R.57-06 to clarify apprentices' quarterly reporting requirements; R.57-08 regarding licensure by endorsement; R.57-09 regarding renewal applications; R.57-10 establishing a residency requirement for funeral home managers and requiring owners of funeral establishments to be licensed funeral directors; R.57-11 regarding continuing education requirements; and other sections to comply with requirements set forth in Chapter 19 of Title 40.

Section-by-Section Discussion

57-01 – 57-05. No change.

57-06. No change.

57-06.1(1)–(2). No change.

57-06.1(3). Strike “due dates for quarterly reports” and replace with “quarter end dates”. Add the due dates for quarterly reports as “April 30, July 30, October 30, and January 30.”

57-06.1(4)–(5). No change.

57-06.1(6). Add “Of the fifty (50) cases required, at least twenty-five (25) cases must include a series of tasks as specified by the Board and enumerated in the quarterly report form.

57-06.1(7)–(10). No change.

57-07. No change.

57-08. Add lettering (A) and numbering (1), (2), and (3), to existing section. Add section (B) to establish documentation required for licensure by endorsement when the applicant's jurisdiction does not have substantially similar licensure requirements.

57-09(A). No change.

57-09(B). Add that renewals must be filed “within thirty (30) days” prior to “or within thirty (30) days following” June thirtieth (30th) each even year.

57-09(C)–(E). No change.

57-10(A)–(B). No change.

57-10(C). Change “a resident of South Carolina” to “licensed and actively practicing in South Carolina”.

57-10(D). Add that for a partnership, at least one partner must be a licensed funeral director “or the partnership must employ a full-time manager” and that for a corporation, at least one officer must be a licensed funeral director “or the corporation must employ a full-time manager”.

57-11(A). Change 3 hours every licensure period to 6 hours to reflect biennial licensure. Strike “represent an in depth study of three (3) different topics.

57-11(B)–(C). No change.

57-12. No change.

57-13. Add “.1” to section.

57-13.2. New section entitled “Websites”.

57-14.1. – 57.14.4. No change.

57-15. No change.

A Notice of Drafting was published in the *State Register* on August 28, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on April 16, 2021. Written comments may be directed to Amy Holleman, Administrator, Board of Funeral Service, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., March 29, 2021. If qualifying requests pursuant to Section 1-23-110(A)(3) of the 1976 Code are not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

Statement of Need and Reasonableness:

These regulations are necessary to: clarify apprentices’ quarterly reporting requirements (R.57-06.1); provide guidance on licensure by endorsement when an applicant’s jurisdiction does not have substantially similar licensure requirements (R.57-08); establish time lines for filing renewal applications with the Board (R.57-09); establish a residency requirement for funeral home managers and require owners of funeral establishments to be licensed funeral directors (R.57-10); amend the continuing education period to reflect biennial renewal and delete a requirement that the continuing education represent an in depth study of three different topics (R.57-11); and add a section regarding listing individuals employed at an establishment on the website. The regulations are reasonable as they do not impose additional burdens on members of the industry.

DESCRIPTION OF REGULATION:

Purpose: The Board is amending its regulations to: clarify apprentices’ quarterly reporting requirements (R.57-06.1); provide guidance on licensure by endorsement when an applicant’s jurisdiction does not have substantially similar licensure requirements (R.57-08); establish time lines for filing renewal applications with the Board (R.57-09); establish a residency requirement for funeral home managers and require owners of funeral establishments to be licensed funeral directors (R.57-10); amend the continuing education period to reflect biennial renewal and delete a requirement that the continuing education represent an in depth study of three different topics (R.57-11); and add a section regarding listing individuals employed at an establishment on the website.

Legal Authority: 1976 Code Sections 40-1-70, 40-19-60, and 40-19-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency’s website.

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

The proposed regulations will clarify apprentices’ quarterly reporting requirements (R.57-06.1); provide guidance on licensure by endorsement when an applicant’s jurisdiction does not have substantially similar licensure requirements (R.57-08); establish time lines for filing renewal applications with the Board (R.57-09); establish a residency requirement for funeral home managers and require owners of funeral establishments to be licensed funeral directors (R.57-10); amend the continuing education period to reflect biennial renewal and

46 PROPOSED REGULATIONS

delete a requirement that the continuing education represent an in depth study of three different topics (R.57-11); and add a section regarding listing individuals employed at an establishment on the website

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

The updated regulations will clarify apprentices' quarterly reporting requirements (R.57-06.1); provide guidance on licensure by endorsement when an applicant's jurisdiction does not have substantially similar licensure requirements (R.57-08); establish time lines for filing renewal applications with the Board (R.57-09); establish a residency requirement for funeral home managers and require owners of funeral establishments to be licensed funeral directors (R.57-10); amend the continuing education period to reflect biennial renewal and delete a requirement that the continuing education represent an in depth study of three different topics (R.57-11); and add a section regarding listing individuals employed at an establishment on the website

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Filed: January 11, 2021 4:38pm

Document No. 5035
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
 CHAPTER 27

Statutory Authority: 1976 Code Sections 46-9-40 and 46-9-50

27-58. Asian Longhorned Beetle Quarantine.

Emergency Situation:

The Asian Longhorned Beetle (ALB) is a federally actionable, quarantine level pest requiring swift action on the part of the state of South Carolina to identify, contain, and eradicate the infestation. Survey, quarantine, and tree removals will be a necessary part of this program in order to achieve eradication, which has been successfully attained in other states with the establishment of similar regulations. The emergency quarantine will establish boundaries extending to about one and one-half miles from the nearest, known infested tree and will limit the movement of regulated articles from within those boundaries. This restriction is necessary to prevent further human-assisted movement of ALB during the eradication efforts. Lastly, the establishment of a state quarantine allows the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS) to implement a similar quarantine which mirrors the size of the state quarantine. Without the more localized state quarantine, USDA-APHIS would quarantine the entire state of South Carolina and many more citizens, businesses, and industries would be negatively impacted.

Text:

27-58. Asian Longhorned Beetle Quarantine.

58.1. Definitions.

A. "Asian Longhorned Beetle" (ALB) means the insect known as Asian longhorned beetle (*Anoplophora glabripennis*) in any living stage of development.

B. "Certificate" means a document or permit, electronic or otherwise, issued or authorized to be issued by the Department or USDA-APHIS inspector to allow the movement of regulated articles to any destination.

C. "Compliance agreement" means a written agreement between an individual or concern engaged in growing, dealing in, or moving regulated articles and a state or USDA-APHIS, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of emerald ash borer.

D. "Department" means the Clemson University Department of Plant Industry, or its representatives, acting on behalf of the South Carolina Crop Pest Commission or the Director and acting as the plant regulatory representative of South Carolina.

E. "Director" means the Director of Regulatory and Public Service Programs at Clemson University.

F. "Firewood" means any wooden material less than four feet in length that is gathered and used for fuel when species present are not labeled and/or readily identifiable.

G. "Inspector" means any authorized employee or agent of the State Crop Pest Commission, state, or USDA-APHIS, or any other person authorized by the Director to enforce the provisions of these regulations.

H. "Moved" means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

I. "Movement documents" means any certificates and/or compliance agreements applicable to these regulations issued by the Department, state, or USDA-APHIS representatives.

J. "Nursery stock" means all fruit, nut and shade trees, all ornamental plants and trees, bush fruits, buds, grafts, scions, vines, roots, bulbs, seedlings, slips or other portions of plants (excluding true seeds) grown or kept for

48 EMERGENCY REGULATIONS

propagation, sale or distribution. Also includes any other plant included by the Director, if regulating its movement is necessary to control any plant pest.

K. "Person" means any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

L. "Quarantined area" means the designated area set by the South Carolina Crop Pest Commission to isolate all known occurrences of the Asian longhorned beetle in one geographical area.

M. "Regulated Articles" means those articles that require a movement document(s) year-round except as indicated.

N. "USDA-APHIS" means the United States Department of Agriculture's Animal and Plant Health Inspection Service.

58.2. Regulated Articles.

A. The Asian longhorned beetle in any life stage.

B. Firewood (all hardwood species), and green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, stumps, roots, branches, and debris of half an inch or more in diameter of the following genera: *Acer* (maple), *Aesculus* (horse chestnut), *Albizia* (mimosa), *Betula* (birch), *Cercidiphyllum* (katsura), *Fraxinus* (ash), *Koelreuteria* (golden rain tree), *Platanus* (sycamore), *Populus* (poplar), *Salix* (willow), *Sorbus* (mountain ash), *Ulmus* (elm), and any other genus of plant confirmed by the Department and/or USDA-APHIS to be a host of ALB.

C. Any other article, product, or means of conveyance not listed in paragraph (2) of this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading ALB and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

58.3. Conditions Governing the Movement of Regulated Articles.

A. Regulated articles may not at any time be moved from quarantined parts of South Carolina or any other state into or through non-quarantined parts of South Carolina or any other state without a state- or federally-issued certificate and/or compliance agreement allowing for such movement provided that no other state or federal provisions prevent it.

B. Regulated articles may be moved from quarantined parts of South Carolina or any other state into or through quarantined parts of South Carolina or any other state without state- or federally-issued certificates and/or compliance agreements provided that no other state or federal provisions prevent it.

C. Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions provided a scientific permit is securely attached to the container of such articles or to the article itself. Scientific permits may be supplied by the Department or USDA-APHIS.

58.4. Issuance of Movement Documents.

A. Certificates - An inspector from the Department or USDA-APHIS, or their representatives, will issue certificates for movement of regulated articles when it has been deemed that ALB is not apparently present and risk of movement of ALB from a quarantined area to a non-quarantined area has been mitigated. In all cases, certificates and permits shall be furnished by the carrier to the consignee at the destination of the shipment.

B. Compliance Agreements - The Department or USDA-APHIS may enter into compliance agreements with persons growing, handling, or moving regulated articles once an inspector has reviewed all provisions of the compliance agreement and each agrees to comply with the provisions of this subpart and any conditions imposed under this subpart. As a condition of issuance of certificates for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infection and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles.

C. Attachment — Movement documents must be attached to or accompany shipments of all regulated articles or containers carrying regulated articles and such articles must be clearly marked with the name and address of the consignor and consignee.

D. Cancellation — Certificates and/or Compliance Agreements may be canceled orally or in writing by an inspector or representative of the Department or USDA-APHIS whenever the inspector determines that the holder of the certificate or compliance agreement has not complied with this subpart or any conditions imposed under this subpart.

58.5. Inspection and Disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within or from the State of South Carolina upon probable cause to believe that non-permitted or non-certified regulated articles are present; and, such inspector is authorized to seize, destroy or otherwise dispose of articles found to be moving in violation of these regulations.

58.6. Removal of Areas from Regulation.

When satisfactory evidence has been presented that ALB has been eradicated from an area affected by this quarantine, the Department may remove regulated areas from the quarantine.

58.7. Waiver of Liability.

The South Carolina State Crop Pest Commission disclaims liability for any cost incident to inspection or treatment required under the provisions of this quarantine, other than for the services of the South Carolina State Crop Pest Commission.

58.8. Regulated Areas.

The areas listed in this emergency regulation are declared to be regulated areas where the pest is known to exist at a level or within proximity of a level which poses a risk of spreading the pest to non-infested areas of South Carolina and other states:

A. The portion of Charleston County, including portions or all of the municipalities of Hollywood, Ravenel, and Charleston that is bounded by a line starting at the intersection of Bulow Landing Road and County Line Road continue west on County Line Road to intersection of Hyde Park Road (S.C. 1332); then south and west on Hyde Park Road (S.C. 1332) to the intersection with S.C. 165; then south on S.C.165 to the intersection with point (80.2382726°W 32.7438883°N); then west along property boundaries to intersection with point (80.2420020°W 32.7448314°N); then southwest along property boundaries to intersection with point (80.2458378°W 32.7407861°N); then southeast along property boundary to intersection with S.C. 165 at point (80.2399048°W 32.7368987°N); then south on S.C. 165 to intersection of S.C. 162; then east on S.C. 162 to intersection of Dixie Plantation Road; continue east on Dixie Plantation Road to the intersection of Gibson Road; south on Gibson Road to the intersection of Church Flats Road; then east along Church Flats Road to the intersection of Westervelt Road; south on Westervelt Road to the intersection of Shark Hole Road; then east on Shark Hole Road to the end of the road in marsh/creek of Wadmalaw River (80.2045760°W 32.7194025°N); then southeast along Wadmalaw River into Church Creek; east along Church Creek to intersection with unnamed creek at point (80.1399242°W 32.7117634°N); then north along the unnamed creek to the intersection with Chisolm Road (S.C. 54) at bridge; east then south on Chisolm Road (S.C. 54) to the intersection of Mary Ann Point Road (S.C. 1333); then east on Mary Ann Point Road (S.C. 1333) to intersection of Main Road (S.C. 20); north on Main Road (S.C. 20) to the intersection of Patton Avenue; then east on Patton Avenue and Fickling Hill Road to the intersection of Turtle Marsh Lane; then west on Turtle Marsh Lane to intersection with point (80.0896517°W 32.7520536°N); then northeast along property boundaries from point (80.0896517°W 32.7520536°N) to point (80.0856907°W 32.7586340°N); then northwest to point (80.0920635°W 32.7629036°N) and then north to the intersection of Old Pond Road (S.C. 1632) and point (80.0910956°W

50 EMERGENCY REGULATIONS

32.7650052°N); then northwest on Old Pond Road (S.C. 1632) to the private road (Joyner Road) at point (80.094066°W 32.770028°N); then east on the private road (Joyner Road) to the intersection with point (80.0920480°W 32.7690658°N); then northeast along property boundaries from point (80.0920480°W 32.7690658°N) to the intersection of point (80.0905036°W 32.7706821°N) and Simmons Creek; then north along Simmons Creek to the intersection of point (80.0889116°W 32.7782614°N) and the Stono River; then northeast across the main body of the Stono River and north along Stono River Creeks to the intersection of Stono River Creeks and point (80.0749385°W 32.7919170°N); northwest along unnamed drainage ditch to the intersection of Marginal Road at point (80.0783450°W 32.7962810°N); then northwest on Marginal Road to intersection of Carolina Bay Drive; north on Carolina Bay Drive to intersection of Cornsilk Drive; west and north on Cornsilk Drive to intersection of Conservancy Lane; east on Conservancy Lane to intersection of Halfshell Lane; then north on Halfshell Lane to the intersection of Sanders Road; west and northwest on Sanders Road to the intersection of Bees Ferry Road (S.C. 57); then northeast on Bees Ferry Road (S.C. 57) to the intersection of Proximity Drive; then northwest on Proximity Drive to the intersection of Barons Drive; west on Barons Drive to intersection with point (80.0992048°W 32.8267727°N); then north along property boundaries to the intersection with point (80.1046114°W 32.8355374°N); then northeast along property boundaries to intersection with point (80.0989634°W 32.8411654°N); then northwest along property boundaries to the intersection with point (80.1046759°W 32.8468555°N); then northeast along property boundaries to the intersection with point (80.1015949°W 32.8495865°N); then west along property boundaries to the intersection with point (80.1276450°W 32.8542581°N); then south following property boundaries to the intersection with point (80.1333798°W 32.8411314°N); then northwest along property boundaries to the intersection with point (80.1456840°W 32.8486665°N); then south following property boundaries to the intersection with the Charleston, Dorchester County Line at Rantowles Creek point (80.1495332°W 32.8205181°N); then south along the Charleston, Dorchester County Line to the terminus of Bulow Landing Road; west following Bulow Landing Road to the intersection of County Line Road to the point of beginning.

B. Additional regulated areas may be designated as quarantined by the Department pursuant to S.C. Code of Regulation 27-135.

C. The official listing of quarantined areas in South Carolina shall be maintained and made publicly available on Clemson's website located at: www.clemson.edu/invasives

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The proposed regulations will define the quarantine area and process for containing and eradicating the Asian Longhorned Beetle. Specifications for how some regulated articles may still move are also provided.

Legal Authority: S.C. Code Ann. Sections 46-9-40 and 46-9-50.

Plan for Implementation: In collaboration with United States Department of Agriculture dedicated South Carolina program staff, the described quarantine will be implemented and enforced immediately upon passage. Outreach and education efforts to inform the public about said quarantine have already ensued and will continue. Additionally, any person, business, or entity regularly engaged in the possible movement of regulated articles, such as nurseries, landscapers, and arborists, will be contacted by the ALB program and entered into a compliance agreement which will indicate their understanding of the new regulation and provide them with direct contact to program officials. Since the movement of yard debris may be impacted by this quarantine, a marshalling yard will be established by the program for the receipt of such materials for destruction at no cost to the affected citizen. There are plans for establishing permanent signage which will indicate when residents are entering or leaving ALB eradication areas.

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

ALB is an invasive wood-boring beetle that infests and kills hardwood trees in North America, preferring maples, elms, birch, true poplars, and willows, but also capable of reproducing in ash, Golden raintree, sycamore, buckeye, katsura, mimosa and mountain ash. Signs of ALB start to show about 3 to 4 years after infestation, with tree death occurring in 10 to 15 years depending on the tree's overall health and site conditions. Infested trees do not recover, nor do they regenerate. Foresters have observed ALB-related tree deaths in every affected state, which in addition to South Carolina currently includes New York, Ohio, Massachusetts, New Jersey, and Illinois. Forestry is the number one industry in South Carolina with a total annual economic impact of \$17 billion. South Carolina exports \$1.4 billion in forest products each year and timber represents the state's number one rural commodity at \$759 million annually.

Quarantining ALB-infested areas in South Carolina will protect uninfested areas and trees from the negative impacts associated with the beetle, which include expedited tree death, potentially reduced national and international trade from South Carolina and with and from other U.S. states, increased human health risks due to falling trees and branches, and increased tree debris management expenses. The quarantine will also stabilize accompanying eradication efforts so that in the long term, the quarantined areas can respawn with these native trees.

An ALB quarantine is necessary in South Carolina to aid eradication efforts, prevent additional pest spread, and save the many more yet to be affected trees in the state.

DETERMINATION OF COSTS AND BENEFITS:

The cost of this quarantine program is largely being supported by a grant from the USDA. Primarily impacted industries include foresters, nurseries, firewood producers, arborists, and landscapers. Through compliance agreements and added precautions, these industries will be able to continue business operations at nearly normal levels. Retarding or preventing movement of some regulated articles will increase expenses to these industries inside the quarantine, but these impacts are necessary to protect the much larger percentage located outside of the quarantine.

UNCERTAINTIES OF ESTIMATES:

Great efforts have gone into predicting and mitigating unnecessary financial impacts to the aforementioned industries through researching impacts from similar ALB quarantines in other states. Where these impacts are identified, efforts are made to provide movement allowances or other options to mitigate the risk of pest spread and provide as little negative impact to industry as possible.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Quarantining ALB-infested areas in South Carolina will protect uninfested areas and trees from the negative impacts associated with the beetle, which include expedited tree death, potentially reduced national and international trade from South Carolina and with and from other U.S. states, increased human health risks due to falling trees and branches, and increased tree debris management expenses. The quarantine will also stabilize accompanying eradication efforts so that in the long term, the quarantined areas can respawn with these native trees.

Will support and follow public health guidance and requirements as set forth by certain both State and Federal authorities.

52 EMERGENCY REGULATIONS

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

Without implementation of the proposed regulations, ALB will spread at least to the borders of South Carolina where the USDA will establish their quarantine. Forestry and other industries would be impacted exponentially as a result of this pest spread, which would include millions of dead and falling trees, loss of critical habitats for wildlife, and reduced public safety.

Statement of Rationale:

Quarantining ALB-infested areas in South Carolina will protect uninfested areas and trees from the negative impacts associated with the beetle, which include expedited tree death, potentially reduced national and international trade from South Carolina and with and from other U.S. states, increased human health risks due to falling trees and branches, and increased tree debris management expenses. The quarantine will also stabilize accompanying eradication efforts so that in the long term, the quarantined areas can respawn with these native trees.