

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
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.

2022 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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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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Executive Order No. 2022-11

WHEREAS, the United States continues to experience various, significant, and sustained supply chain disruptions, which are adversely impacting the movement and availability of critical consumer goods and industrial materials in South Carolina and other States; and

WHEREAS, particularly as Americans face increasing prices for gasoline and essential fuels, as well as historic inflation, ongoing supply chain disruptions continue to impose additional burdens on businesses, individuals, and families; and

WHEREAS, although the State of South Carolina, which boasts robust and reliable transportation infrastructure, including the Port of Charleston and productive inland ports, remains uniquely prepared and positioned to mitigate interruptions in the national and international supply chains, the United States continues to experience significant supply chain disruptions; and

WHEREAS, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*, and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

WHEREAS, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

WHEREAS, section 56-5-70(B) of the South Carolina Code of Laws, as amended, provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

WHEREAS, on November 19, 2021, the Governor of the State of Georgia declared that emergency conditions existed in his State due to, *inter alia*, the continued negative impacts of COVID-19 and the need to facilitate economic recovery and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on November 23, 2021, the undersigned issued Executive Order No. 2021-40, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles in connection with the cited supply chain disruptions and the declared emergency in the State of Georgia pursuant to 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on December 17, 2021, the Governor of the State of Georgia renewed his declaration that emergency conditions existed in his State and extended the waiver or suspension of certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on December 23, 2021, the undersigned issued Executive Order No. 2021-44, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on January 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia’s continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

4 EXECUTIVE ORDERS

WHEREAS, on January 25, 2022, the undersigned issued Executive Order No. 2022-08, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on February 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

WHEREAS, on February 28, 2022, the Governor of the State of North Carolina extended the terms of a previous emergency declaration and other orders pertaining to COVID-19, including transportation-related provisions contained therein; and

WHEREAS, on March 1, 2022, the undersigned issued Executive Order No. 2022-10, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on March 21, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

WHEREAS, for the aforementioned and other reasons and in accordance with the cited authorities, the undersigned has determined that the circumstances described herein in connection with existing, ongoing, and anticipated supply chain disruptions and any actual, potential, or perceived interruptions in the availability, transportation, or delivery of critical consumer goods and industrial materials in the State of South Carolina constitute an emergency for purposes of 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws such that it is necessary and prudent to provide additional relief to assist in facilitating, supporting, and strengthening South Carolina's transportation industries and infrastructure so as to avoid, mitigate, or minimize further national and international supply chain interruptions.

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 and direct as follows:

Section 1. Transportation Waivers to Address Sustained Supply Chain Disruptions

A. I hereby determine and declare that the existing, ongoing, and anticipated threats and circumstances described herein associated with supply chain disruptions and the impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending 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.

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 FMCSA's February 26, 2022 Extension and Amendment of Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; providing direct assistance as defined by 49 C.F.R. § 390.5 to the declared emergencies in the State of Georgia or the State of North Carolina; or otherwise assisting with the existing or anticipated threats and circumstances associated with supply chain disruptions as further described herein.

C. I hereby authorize DOT and DPS, as applicable, to apply for or request any additional federal regulatory relief, waivers, permits, or other appropriate flexibility deemed necessary, whether pertaining to the transportation of overweight loads on interstate highways or otherwise, on behalf of the State of South Carolina and to promptly implement the same without the need for further Orders.

D. 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 or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarifications issued, provided, or promulgated by DOT or DPS.

E. Subject to any guidance, rules, regulations, restrictions, or clarification 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, and 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 with five (5) weight bearing axles 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 (except as provided below), 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. Except as provided below, 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. In accordance with federal law, vehicles traveling on non-interstate routes within the National Network may not exceed a width of 102 inches or 8.6 feet without a special permit. Information regarding special permits for width on the National Network are available on DOT’s website, and a list of routes on the National Network is set forth in Appendix A to 23 C.F.R. Part 658.

6. 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.

F. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

G. This Section is effective immediately and shall remain in effect for thirty (30) days or until the declared emergency in the State of Georgia is terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

Section 2. Directives to Address Supply Chain Disruptions

6 EXECUTIVE ORDERS

A. I hereby declare that the provisions of Section 2 of Executive Order No. 2021-40 shall remain in full force and effect unless otherwise modified, amended, extended, or rescinded by subsequent Order.

Section 3. 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. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 31st DAY OF MARCH, 2022.**

**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 **April 22, 2022**, 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 Berkeley County**Coastal Vascular and Vein Institute, LLC d/b/a Coastal Vascular & Vein Center – Ambulatory Surgery Center**

Construction for the establishment of a 3520-sf ambulatory surgery facility including 1 operating room at a total project cost of \$3,203,041.

Affecting Charleston County**Signe Spine Surgical Center, LLC**

Construction for the establishment of a 4,211-sf ambulatory surgical facility with 1 OR specializing in physical medicine and rehabilitation at a total project cost of \$2,745,088.

Trident Medical Center, LLC d/b/a/ Summerville Medical Center

Purchase of a Globus Medical-Excelsius GPS Robotic Navigation System at a total project cost of \$2,500,000.

Affecting Lexington County**Judah Med Care LLC**

Establishment of a Home Health agency in Lexington County at a total project cost of \$10,500.

LexMed Inc. d/b/a Lexington Medical Center Extended Care

Construction for the establishment of a 65,737 sf 88-bed skilled nursing facility with the relocation of existing long-term care beds from the Lexington Medical Center Extended Care followed by renovation of existing 49,500 sf facility converting semi-private rooms to private rooms at a total project cost of \$33,645,000.

Affecting Richland County**Judah Med Care LLC**

Establishment of a Home Health agency in Richland County at a total project cost of \$10,500.

Affecting York County**Judah Med Care LLC**

Establishment of a Home Health agency in York County at a total project cost of \$10,500.

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 **April 22, 2022**. "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 Bamberg County**Grove Park Pharmacy Home Care d/b/a Grove Park Home Care, LLC**

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Establishment of a Home Health Agency in Bamberg County at a total project cost of \$1,000.

Affecting Beaufort County

InvestSouth IHC, LLC d/b/a Interim Healthcare of the Upstate

Establishment of a Home Health Agency in Beaufort County at a total project cost of \$11,550.

Affecting Calhoun County

Grove Park Pharmacy Home Care d/b/a Grove Park Home Care, LLC

Establishment of a Home Health Agency in Calhoun County at a total project cost of \$1,000.

Affecting Charleston County

East Cooper Community Hospital, Inc. d/b/a East Cooper Medical Center

Purchase of a Excelsius3D imaging system at a total project cost of \$1,224,240.

Affecting Hampton County

InvestSouth IHC, LLC d/b/a Interim Healthcare of the Upstate

Establishment of a Home Health Agency in Hampton County at a total project cost of \$11,550.

Affecting Jasper County

InvestSouth IHC, LLC d/b/a Interim Healthcare of the Upstate

Establishment of a Home Health Agency in Jasper County at a total project cost of \$11,550.

Affecting Lexington County

Lexington Health, Inc. d/b/a Lexington Medical Heart and Vascular Center

Purchase of a GE CardioGraphe CT Scanner and renovation of 440 existing sf at a total project cost of \$1,161,857.

Affecting Oconee County

Prisma Health-Upstate d/b/a Oconee Memorial Hospital

Purchase of a 3T MRI and renovation of 3,000 existing sf at a total project cost of \$4,702,000.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC COMMENT PERIOD FOR SOUTH CAROLINA 2022 ANNUAL MONITORING NETWORK PLAN

Statutory Authority: S.C. Code Sections 48-1-10 et seq.

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide opportunity to comment on the proposed 2022 South Carolina Annual Ambient Air Monitoring Network Plan (Network Plan) to meet obligations to the U.S. Environmental Protection Agency (EPA), and provide documentation of the establishment and maintenance of an air quality surveillance system that consists of a network of state or local air monitoring stations (SLAMS) that includes federal reference method (FRM) and federal equivalent method (FEM) monitors that are part of SLAMS, national core multipollutant monitoring stations (NCore), chemical speciation network (CSN), and special purpose monitor (SPM) stations. The proposed Network Plan includes a statement of whether the operation of each monitor meets the requirements of [Appendix E](#) of 40 CFR Part 58, Ambient Air Quality Surveillance. As part of this Network Plan, the Department is also including an annual assessment as required under 40 CFR 51.1205(b) for those facilities that demonstrated attainment with the 1-hr Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) as part of the Data Requirements Rule (DRR) using modeled emission rates that were less

than the maximum permit allowable rates. The Network Plan is available for public inspection and comment for 30 days prior to submission to the EPA to include any received comments. To be considered, the Department must receive comments no later than 5:00 p.m. on May 23, 2022, the close of the comment period.

The Department is also providing the interested public with the opportunity to request a public hearing on the Network Plan. If requested, the Department will hold a public hearing on June 6, 2022, at 10:00 a.m., in Room 2151 of the Sims Building, 2600 Bull Street, Columbia, South Carolina. In the event that a requested public hearing cannot be held in person due to the COVID-19 guidelines restricting in-person meetings, the public hearing will be held using an alternative method that provides the public the ability to participate remotely. Pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the close of the comment period, 5:00 p.m. on May 23, 2022, the Department will cancel the public hearing. If the public hearing will be held remotely using an alternative method, or if the Department cancels the public hearing, then the Department will notify the public and provide instructions for accessing any remote public hearing (if a hearing is requested) at least one week prior to the scheduled hearing via the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>. Interested persons may also contact Joel Hodges, Air Regulation and Data Analysis Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; via phone at (803) 898-4131; or email at hodgesje@dhec.sc.gov for more information or to find out if the Department will hold the public hearing. A copy of the proposed 2022 South Carolina Annual Ambient Air Monitoring Network Plan is also located on the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>

Synopsis:

In October 2006 and in April 2016, the EPA published requirements for an annual monitoring network plan. This Network Plan, as required and described in 40 CFR Part 58.10, Annual Monitoring Network Plan and Periodic Network Assessment, must contain the following information for each monitoring station in the network:

1. The Air Quality System (AQS) site identification number (ID) for existing stations,
2. Location of each monitoring station, including street address and geographical coordinates,
3. The sampling and analysis method used for each measured parameter,
4. The operating schedule for each monitor,
5. Any proposal to remove or relocate a monitoring station within a period of eighteen months following the network plan submittal,
6. The monitoring objective and spatial scale of representativeness for each monitor,
7. The identification of any sites that are suitable for comparison against the Particulate Matter less than 2.5 microns (PM_{2.5}) NAAQS, and
8. The MSA, Core-Based Statistical Area (CBSA), Combined Statistical Area (CSA), or other area represented by the monitor.

Any network modifications to SLAMS networks are subject to the approval of the EPA Regional Administrator, who shall approve or disapprove the plan within 120 days of submission of a complete plan to the EPA. This 2022 South Carolina Annual Ambient Air Monitoring Network Plan covers the eighteen-month period from July 1, 2022, through December 31, 2023, and includes all anticipated modifications to the monitoring network.

The DRR annual assessment includes, for the applicable facilities, a comparison of the actual SO₂ emissions at each facility versus the SO₂ emissions included in the 1-hr SO₂ modeling demonstration and a determination as

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to whether the modeling performed for the DRR is still adequate to demonstrate attainment with the 1-hr SO₂ NAAQS.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

CAPACITY USE AREA GROUNDWATER MANAGEMENT PLAN AND PUBLIC HEARING

April 22, 2022

The Groundwater Use and Reporting Act requires that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources. See S.C. Code Section 49-5-20. Further, the Act states that the Department of Health and Environmental Control (the Department) shall coordinate the affected governing bodies and groundwater withdrawers (of a designated Capacity Use Area) to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. See S.C. Code Section 49-5-60(B). In those areas where the governing bodies and withdrawers are unable to develop a plan, the Department shall take action to develop the plan as required by law.

The Department in coordination with a local Stakeholder Workgroup, diverse in geographic and water user type representation, has developed a local groundwater management plan for the designated Santee-Lynches Capacity Use Area to bring before the Board for final approval. A public hearing for the final approval of the Santee-Lynches Capacity Use Area groundwater management plan is scheduled for Thursday, June 9, 2022, during the Board of Health and Environmental Control's monthly meeting. The public hearing and meeting will be held at 10:00 AM on the 3rd Floor, Room 3420, of the S.C. DHEC Central Office located at 2600 Bull St., Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing. Local governments, permitted water users, industry, public water suppliers, and the general public are invited to attend and participate.

If you have questions or comments, please contact Leigh Anne Monroe, Water Quantity Section, at (803) 898-2415 or by email at monroela@dhec.sc.gov. You may also visit our webpage at <https://scdhec.gov/BOW/groundwater-use-reporting/groundwater-management-planning/santee-lynches-area-p> reliminary for more information.

REVENUE AND FISCAL AFFAIRS OFFICE BOARD OF ECONOMIC ADVISORS

NOTICE OF GENERAL PUBLIC INTEREST

S.C. Code of Laws §6-1-320 establishes millage caps for local governing bodies equal to the increase in the average of the twelve monthly consumer price indexes for the most recent twelve-month period consisting of January through December of the preceding calendar year, plus, beginning in 2007, the percentage increase in the previous year in the population of the entity as determined by the Revenue and Fiscal Affairs Office.

The current methodology for estimating school district population uses the annual estimates of the resident population for counties from the U.S. Bureau of the Census, Population Division. This methodology was published in the November 24, 2006, Register.

The basis of this methodology relies on the relationship between the school district and county population changes over the 10- year period between decennial censuses. For school districts in multi-district counties, the methodology results in an inverse growth relationship between a school district's estimated population and the county population if the county population increases while the school district experiences a decline.

While this relationship has occurred in the past, significant population shifts within school districts of the same county from the 2010 to the 2020 Census have resulted in unrealistic annual population growth estimates for some school districts in multi-district counties based on the 2020 Census. To improve the estimates, we have amended the methodology so that if a school district within a multi-district county has an inverse relationship with its county population growth, the school district's population growth is limited to the population growth of the county.

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-63-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-19, Vital Statistics. Interested persons may submit comment(s) on the proposed amendments to Caleb Cox of the Bureau of Vital Statistics; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; vrreg@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on May 23, 2022, the close of the Notice of Drafting comment period.

Synopsis:

Pursuant to S.C. Code Sections 44-63-10 et seq., the Department is tasked with establishing the bureau of vital statistics and formulating, promulgating, and enforcing regulations for administering the program. The Department proposes amending R.61-19, Vital Statistics, to provide general updates to make processes more clear, concise, customer-friendly, and efficient; to remove obsolete sections; to add and update definitions; to address advancements in processes for the creation and amendment of vital records; and to bring the regulation into conformity with changes in South Carolina law.

The proposed amendments may also include 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 SOCIAL SERVICES CHAPTER 114

Statutory Authority: 1976 Code Sections 43-5-580(b) and 63-17-470(D)

Notice of Drafting:

The South Carolina Department of Social Services proposes to draft revised regulations, Chapter 114, 114-4710 through 114-4750, known as the Child Support Guidelines. Interested persons may submit comments to Mr. Stephen Yarborough, Child Support Services Division, PO Box 1469, Columbia, SC 29202-1469. To be considered, comments must be received no later than 5:00 PM on May 23, 2022.

Synopsis:

The South Carolina Department of Social Services proposes amending regulations concerning Child Support Guidelines in order to maintain compliance with State and Federal law and regulations. The Family Support Act of 1988 [P.L. 100-485] requires that at least every four years the Guidelines be reviewed and updated to reflect the latest economic data on child-rearing costs. The Department is also required by State law to review the Guidelines at least every four years to ensure that their application results in adequate support award amounts [South Carolina Code of Laws, 1976, as amended, Sections 43-5-580(b) and 63-17-470(D)].

Legislative review of this amendment is required.

Document No 5032
CLEMSON UNIVERSITY
 CHAPTER 27

Statutory Authority: 1976 Code Section 46-21-625

- 27-190. General Certification Standards.
- 27-195. Vegetatively Propagated Forage Grass Certification Standards.
- 27-196. Vegetatively Propagated Turf-grass Certification Standards.
- 27-1000. Peanut Seed Certification Standards.
- 27-1002. Small Grain Certification Standards (Wheat, Oats, Barley, Rye and Triticale).
- 27-1003. Soybean Certification Standards.
- 27-1005. Certification Standards for Hemp (*Cannabis Sativa L. Subsp. Sativa*). (New)

Synopsis:

Clemson University proposes to add language to clarify and update the Seed Certification Standards for South Carolina. The proposed changes to the regulations will update regulations to align with current technologies within the seed industry, allow for flexibility to certified seed growers when deemed necessary by the Department of Fertilizer Regulatory and Certification Services, as well as adding needed standards for industrial hemp.

A Notice of Drafting regarding the subject matter of the proposed regulation was published in the *State Register* on September 25, 2020.

Instructions:

Replace current language with Regulation 27-190 et al. as shown below.

Text:

27-190. General Certification Standards.

(Statutory Authority: 1976 Code Section 46-21-625)

In order to qualify as a seed certifying agency for purposes of section 101(a)(24) of the Federal Seed Act (7 U.S.C. 1551) the Fertilizer Regulatory and Certification Services of Clemson University, hereinafter referred to as the Seed Certification Department, enforces standards and procedures, as conditions for its certification of seed, that meet or exceed the standards and procedures specified in sections 201.68-201.78 of Federal Seed Act Regulations.

The following are the minimum standards required for the certification of seed and vegetative propagating material for genetic purity and identity by the Seed Certification Department. This seed certification program shall cover planting stocks of varieties*, hybrids, multi-lines, synthetics, etc. produced, conditioned, sampled, tested and labeled in accordance with the standards of the Seed Certification Department.

Crops Without Published Standards

In the case of crops for which no standards have been published in South Carolina, standards of the Federal Seed Act or the Association of Official Seed Certifying Agencies (AOSCA) shall apply. If no Federal or AOSCA standards have been published for the crop, standards of an AOSCA member agency certifying the crop will be used until South Carolina Standards are published.

I. Classes of Seed Recognized and Definition of Terms

14 FINAL REGULATIONS

A. Breeder Seed is seed or vegetative propagating material directly controlled by the originating or sponsoring plant breeding institution, firm, or individual, and is the source for the production of the other classes of certified seed.

B. Foundation Seed is a class of certified seed which is the progeny of Breeder or Foundation seed or vegetative propagating material produced and handled to maintain genetic purity and identity, as outlined for Foundation seed in the standards of the Seed Certification Department.

C. Registered Seed is a class of certified seed which is the progeny of Breeder or Foundation or vegetative propagating material produced and handled to maintain genetic purity and identity as outlined for Registered seed in the standards of the Seed Certification Department.

D. Certified Seed is a class of certified seed which is the progeny of Breeder or Foundation or Registered seed or vegetative propagating material produced and handled to maintain genetic purity and identity as outlined for Certified seed in the standards of the Seed Certification Department.

E. Variety—The term variety (cultivar) denotes an assemblage of cultivated individuals which are distinguished by any characters (morphological, cytological, chemical or others) significant for the purposes of agriculture, forestry, or horticulture and which, when reproduced (sexually or asexually) or reconstituted, retain their distinguishing features.

F. Off-type—a plant or seed not part of the variety in that it deviates in one or more characteristics from that which has been described by the breeder as being usual for the strain or variety.

G. Hybrid—The term “hybrid” applied to kinds or varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining (1) two or more inbred lines; (2) one inbred or a single cross with an open pollinated variety; or (3) two selected clones, seed lines, varieties, or species. “Controlling the pollination” means to use a method of hybridization which will produce pure seed which is at least 75 percent hybrid seed. Hybrid designations shall be treated as variety names.

H. Open-pollination—The term “open-pollination” means pollination that occurs naturally as opposed to controlled pollination, such as by detasselling, cytoplasmic male sterility, self-incompatibility or similar processes.

I. Lot of Seed—a definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

J. Purity—the name of the kind, type or variety and the percentage thereof; the percentage of other crop seed; the percentage of weed seeds; the percentage of inert matter; and the names of the noxious weed seeds and the rate of occurrence of each.

K. Conditioning—the various procedures involved in the mechanical handling of seed after harvesting to prepare the seed for marketing.

L. Variants—seed of plants which are (a) distinct within the variety but occur naturally within the variety, (b) stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted and (c) which were a part of the variety as originally released. Variants are not to be considered off types.

M. Label—the term label as used herein shall be defined as an attachment to or printed area of a seed container which contains product identity and quality information as required by these standards and the SC Seed Law.

II. Eligibility Requirements for Certification of Varieties

A variety shall be eligible for certification in South Carolina only if it has been approved as meriting certification by the Seed Certification Department or one other agency which is a member of AOSCA, or by an appropriate national variety review board. The originator, developer, owner or agent must provide the following information when eligibility for certification is requested (this information may be submitted on forms provided by the Seed Certification Department or on an application for US Plant Variety Protection):

- A. The name of the variety. This name must be the established name if the variety has previously been marketed.
- B. A statement concerning the variety’s origin and the breeding procedure used in its development.
- C. A detailed description of the morphological, physiological and other characteristics of the plants and seed that distinguish it from other varieties, including variants and the frequency expected within the variety.
- D. Evidence of performance of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety.
- E. A statement delineating the geographic area or areas of adaptation of the variety.
- F. A statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied.
- G. A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified.
- H. Any additional restrictions on the variety, specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity.
- I. A sample of seed representative of the variety as marketed.

Upon approval of a variety for certification, a detailed description of the identifiable characteristics of the variety shall be supplied the Secretary of AOSCA by the Seed Certification Department. The Secretary of AOSCA shall make this description available to other certifying agencies to enable certification of the variety in their states.

III. Limitations of Generations

The number of generations through which a variety may be multiplied shall be limited to that specified by the originating or sponsoring breeder or owner of the variety and shall not exceed two generations beyond the Foundation seed class with the following exceptions:

- A. Re-certification of the Certified class may be permitted for older varieties where Foundation seed is not being maintained.
- B. The production of an additional generation of the Certified class only may be permitted on a one-year basis, when an emergency is declared by the certifying agency stating that the Foundation and Registered seed supplies are not adequate to plant the needed Certified acreage of the variety. The permission of the originating or sponsoring plant breeder, institution, firm or owner of the variety, if existent, must be obtained. The additional generation of certified seed to meet the emergency need is ineligible for re-certification.

IV. Application for Certification

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A. All persons who desire to have seed certified in S.C. must file applications with the Seed Certification Department. Application blanks are available by contacting the Seed Certification Department or by accessing it online at: Clemson.edu/frcs.

B. Establishing the Source of Seed.

In order to establish the source, class and quantity of seed used to plant each crop to be considered for certification, the applicant must submit with the application an invoice or bill of lading and one label from each lot of seed planted or in the case of turfgrass, a turfgrass certificate must be submitted. In cases where growers plant eligible seed from their own production, lot numbers for the seed stock used must be provided with the application to allow for verification that an acceptable analysis report is on file with the Seed Certification Department. The applicant's signature on the application for certification is affidavit that the information submitted for verification of seed eligibility represents the total amount of seed used.

C. Certification Charges and Dates for Filing Applications.

Completed applications with accompanying seed documentary evidence specified in section B should be filed with the Seed Certification Department by the appropriate dates specified on the application and should be accompanied with applicable fees as indicated on the certification application form.

D. Late Application Fee

If an applicant fails to file application within 15 days of the deadline date for filing an application for certification of a crop, a late application fee will be added to regular certification charges.

E. Canceling Applications

To receive a full refund of all charges related to the application, applicants desiring to cancel applications for certification must inform the Seed Certification Department in sufficient time to notify the field inspector. If the inspector cannot be notified in time to prevent an unnecessary trip to the farm, the farm fee indicated on the application will be assessed.

V. Production of Seed

A. Maintenance of Genetic Purity and Identity

1. The applicant for certification shall be responsible for maintaining genetic purity and identity at all stages of certification including seeding, harvesting, storage, conditioning and labeling of the seed. Failure of the applicant to maintain genetic purity and identity at any stage of certification shall be cause for rejection of the crop for certification.

2. The applicant's signature on the application for certification is affidavit of the following:

a. That all equipment involved in planting, harvesting or other handling will be adequately cleaned to maintain genetic purity and identity of the seed.

b. That only the seed verified as the eligible seed source on the application was planted in the field(s) described on the application.

c. That the identity of the seed will be maintained from harvest to the time it leaves the applicant's possession through the use of an identification system as indicated in this section, F and section VI, B, 2.

B. Unit of Certification

The unit of certification shall be a clearly defined area, which may be divided subject to specific crop standards.

C. Field Inspection

One or more field inspections shall be made each time a seed crop of any certified class is to be harvested and when genetic purity and identity or any other factor affecting seed certification can best be determined. The field shall be in such condition to permit an adequate inspection to determine genetic purity and identity. Weeds present in any field to the extent that genetic purity determination is not possible shall be sufficient cause for rejection of that field.

D. Re-inspection of Rejected Fields

If a grower desires re-inspection of a rejected field, he must notify the Department when deficiencies have been corrected. The cost of re-inspections shall be another farm fee and inspection fee. Another farm fee will not be charged on a re-inspection if a re-inspection can be performed in conjunction with other first-time inspection work on later maturing varieties, etc.

E. Seed-Borne Diseases and Seed Treatment

Every field for which certification is requested shall show evidence that reasonable precaution has been taken to control seed-borne diseases. The field at time of inspection shall not contain injurious seed-borne plant diseases beyond established tolerances specified in the individual crop seed standards. New diseases may create a need for new standards before they can be published. In such situations, the Seed Certification Department shall impose such standards as are deemed to be in the best interest of S. C. Certified seed. When seed of a variety without resistance to a seed-borne disease has been subjected to possible infection by the disease, it is desirable that such seed be treated with a recommended seed treatment.

F. Inspection of Harvested Seed.

Harvested lots of seed from inspected fields may be inspected at any time by representatives of the Seed Certification Department. Evidence that any lot of seed has not been protected from contamination which affects genetic purity, or is not properly identified, shall be cause for rejection of the seed for certification. Bins and other storage facilities must be labeled or marked to indicate crop, variety and class. Office records on identification of seed in storage must indicate variety, class, grower, approximate quantity and storage locations.

G. Bulk Shipment of Certified Seed for Conditioning.

When any class of certified seed is being transported in bulk for conditioning, the form Shipping, Receiving and Conditioning Report for Bulk Seed must be completed and filed with the Seed Certification Department. This form identifies the certifying agency, the crop and variety, class of seed, lot number, quantity, conditioner, etc. This form is also to be used to record change of ownership of seed.

VI. Conditioning of Seed

A. All seed to be certified in South Carolina must be conditioned at facilities which are inspected and approved for conditioning certified seed. The seed may be conditioned by the grower on his own equipment or by an approved custom or commercial conditioner provided inspections by the Seed Certification Department determine that genetic purity and identity can be maintained during all handling of certified seed at the facility including storage, conditioning and labeling.

B. Conditioners of all classes of certified seed shall meet the following requirements:

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1. Facilities must be available that can condition seed without introducing admixtures. The conditioner shall be responsible for proper cleaning of facilities to prevent contamination of certified seed delivered for conditioning.

2. Identity of the seed must be maintained at all times.

a. Certified seed being delivered for conditioning must be adequately identified by the grower. All unconditioned certified seed stored in bins or other areas on the premises must be labeled or marked to indicate variety and class.

b. At the time of bagging of conditioned certified seed, each bag of seed shall have permanently marked on it the variety and lot number. The use of a stencil or stamp is recommended but any means of permanently marking bags is acceptable. Once marked on the bag, a lot number may not be removed or marked out and another lot number substituted for it.

c. Each bin or container of bulk conditioned seed which is ready for sale or which is being transferred to storage for sale must be labeled with the form "S.C. Bulk Registered or Certified Seed Label and Inventory" (available on the seed certification website) which must be obtained from the Seed Certification Department.

3. Records of all operations relating to certification must be complete and adequate to account for all incoming seed and final disposition of seed.

4. Conditioners shall permit inspection by the Seed Certification Department of all records pertaining to certified seed.

5. Conditioners shall designate an individual who shall be responsible for performing the duties required by the Seed Certification Department.

C. Seed Lots of the same variety and seed class may be blended and the seed class retained. If lots of different classes are blended, the lowest class shall be applied to the resultant blend. Such blending can only be done when authorized by the Seed Certification Department.

D. The Seed Certification Department shall have the authority, without prior notice, to inspect facilities used to condition certified seed to determine that the facilities and handling of the seed comply with the requirements of section VI, Conditioning of Seed. Any conditioner who fails to meet these requirements shall forfeit his right to condition certified seed until deficiencies are corrected.

E. If South Carolina certification tags are to be issued on seed which was field-approved in South Carolina but is to be conditioned in another state, must be conditioned in an approved conditioner from the certifying agency of that state.

F. Approved Conditioners

1. Conditioners who desire to condition certified seed for other growers in South Carolina must apply annually for Approved Conditioner classification. Conditioners desiring to apply for Approved Conditioner classification for the first time should request application blanks from the Seed Certification Department.

2. Inspections. Plants applying for Approved classification will be inspected at least once annually with the times of inspections to be at the discretion of the Seed Certification Department and without prior notification to the conditioner. Approved conditioner classification shall remain in effect for one year providing subsequent inspections do not disclose deficiencies which result in loss of the classification. If, during inspection, deficiencies are noted that prevent the facility from being granted the Approved classification, the owner will have 30 days to correct the deficiencies before losing the Approved classification. Consideration will be given

to correction of deficiencies that would require more than 30 days because of need for mechanical or engineering changes. If Approved status is lost as the result of deficiencies not corrected, re-instatement must be accomplished by filing a new application and paying another inspection fee. At the end of the year during which a facility has retained its Approved status the Seed Certification Department will notify the conditioner of the need to file an application for renewal of Approved classification.

3. Inspection Fee. The annual fee for Approved conditioner classification shall be payable at the time application is filed. The fee will cover all inspections for one year if, during the course of the year's inspections, the facility retains its Approved classification. If a facility loses its Approved classification as the result of deficiencies noted during inspections and the conditioner desires to correct the deficiencies and request reinstatement to Approved status, he must file a new application and pay the fee again.

4. Listing of Approved Conditioners

The Seed Certification Department shall publish semiannually and mail to seedsmen and growers the list of Approved Certified Seed Conditioners in South Carolina. When a facility loses Approved status, all certified seed growers who are using the facility will be notified of the need to arrange for conditioning elsewhere until the facility regains Approved status.

5. Loss of Approved Conditioner Classification

Loss of Approved conditioner classification may result from:

a. Failure to meet conditioning requirements of this section, VI. Conditioning of Seed. Under these circumstances re-instatement of the Approved classification may be accomplished as indicated under F. 3. Inspection Fee.

b. If, during any year in which a conditioner is classified Approved, more than ten percent (10%) of the samples of his certified seed are found out of tolerance in a percentage of purity, inert matter, weed seed or other crop seed, he will forfeit the Approved classification for no less than one year. This applies to all classes of certified seed on which the conditioner's name appears as seedsmen on the certification label or Bulk Conditioned Seed Sale Certificate for S.C. Registered or Certified Seed. Analyses of samples of certified seed conditioned for other growers shall be the basis for application of this standard to the conditioner who conditions no certified seed for himself. Determination of samples out of tolerance will be based on analyses of a combination of the samples of certified seed obtained by Seed Certification Department and S. C. Department of Agriculture inspectors as compared to analysis labels on the seed. No conditioner shall have his Approved classification withdrawn on the basis of analyses of less than fifty (50) samples annually unless the number of samples found out of tolerance at the end of the year exceeds five (5), (10% of 50). When less than fifty (50) samples of a conditioner's certified seed are drawn annually by Seed Certification and S. C. Department of Agriculture inspectors, and the number of samples found out of tolerance during the year has not exceeded five (5), the percentage of samples out of tolerance will be determined when fifty (50) such samples have been drawn and analyzed.

Should loss of Approved Conditioner classification be appealed to the Seed Certification Department and not be resolved amicably, the complainant may appeal to the Clemson University Board of Trustees. In which case, the Chairman of the Board will appoint a committee with Board representation and representative members of the seed industry to study the matter and make recommendations to the Board.

VII. Lot Size, Sampling, Seed Testing

A. The maximum quantity of seed permitted per lot and size of sample required for a purity and germination test is as follows:

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CROP	MAXIMUM LOT SIZE	SAMPLE SIZE
Peanuts	500 bags or 25,000 lbs.	2 lb.
Small Grains:		
Barley	24,000 lbs.	2 lb.
Oats	32,000 lbs.	2 lb.
Rye	28,000 lbs.	2 lb.
Triticale	24,000 lbs.	2 lb.
Wheat	30,000 lbs.	2 lb.
Soybeans	30,000 lbs.	2 lb.

Note: Varietal purity determination is not possible on seed which has been treated with some pesticides. If a pesticide is to be used which coats or colors the seed, a sample of the conditioned, untreated seed must be submitted for purity analysis and a sample of the conditioned, treated seed must be submitted for the germination test.

B. Sampling of conditioned seed for certification may be accomplished by any of several approved methods but the primary consideration should be that the sample is as representative of the seed as possible. The signature of the applicant for certification is affidavit that he and the conditioner of his seed are familiar with and will draw samples for certification in accordance with one of the following approved sampling methods:

1. If seed is sampled during conditioning, the most representative sample can be obtained with an automatic sampling device in the flow of conditioned seed or by taking a small portion of seed by hand from the top of each bag before it is closed. When conditioning of a lot is complete (see maximum lot size, item A) the seed taken from each bag should be thoroughly mixed and a sample of the seed required for testing (see size of sample required, item A) taken from this seed.

2. If seed is sampled after conditioning and closing of bags, a probe or trier long enough to reach all areas in the bag shall be used for free flowing seed. When sampling closed bags in quantities of one to six bags, a sample shall be composed of a core from each bag for a total of at least five cores for each sample. For lots of more than six bags, sample five bags plus at least 10% of the number of bags in the lot. Regardless of lot size, it is not necessary to sample more than thirty bags.

3. If seed is sampled after conditioning and is to remain in bulk, it shall be sampled by inserting a long probe into the seed at well distributed points throughout the bulk. Sufficient seed must be obtained from the bulk conditioned seed to provide the same number of samples required from the seed as if it were being bagged. (See VII. A.).

4. Note: Federal Seed Act Regulations require maintenance of a complete record on each lot, including a sample representing each lot transported or delivered for transportation in interstate commerce. Records and sample are to be kept for three (3) years, except that any sample may be discarded one (1) year after the entire lot has been disposed of by the person transporting or delivering the seed for transportation in interstate commerce.

It is advisable to retain a sample regardless of where the seed is sold.

C. The Seed Certification Department and its designated representatives shall have the authority, without prior notice, to sample conditioned certified seed while the seed is on the premises of or remains the responsibility of the seedsman whose name appears on the certification tags or bulk sale certificate.

The producer or conditioner, depending on location of the seed, is expected to stack and store conditioned certified seed to permit reasonable access for random sampling of the lots available in accordance with procedure outlined in B. 2 and 3 of this section of standards. "Reasonable access" as used herein is

interpreted as being afforded access to sample at random a representation of the lots of certified seed in a warehouse or other facility without causing undue inconvenience to the conditioner or producer.

D. The South Carolina Department of Agriculture (SCDA) is designated by law as the only official laboratory for testing certified seed samples in South Carolina. Certified seed tags or bulk sale certificates will be issued only on the basis of “Official Sample” tests by the SCDA or other lab approved by the Department, but only in those circumstances with the SCDA is unable to complete the testing in a reasonable period of time and only for those seeds to be sold outside of the state.

1. Each applicant whose fields meet certification standards will be furnished “Official Sample” stickers which must be attached to certified seed samples submitted to the SCDA for testing. The detailed “Official Sample” analysis must be performed on certified seed samples to determine that seed standards of the certification program are met.

2. Analyses performed on more than one sample taken from a given quantity of seed, without some form of reconditioning (re-cleaning, treating, etc.) shall be averaged to determine acceptance or rejection of the seed for certification.

3. Note: It is a violation of the S.C. Seed Law to offer seed for sale or distribution before it has been analyzed in accordance with the provisions of the S. C. Seed Law.

VIII. Grow-Out Tests

As an additional check on the effectiveness of the certification program, the Seed Certification Department will routinely sample conditioned certified seed and plant the seed to determine that seed purity is being maintained and that producers or conditioners are sampling seed properly. In all cases where possible, grow-out plantings of these samples will be planted immediately adjacent to plantings from samples of the same lots which producers or conditioners submitted to the S.C. Department of Agriculture Seed Laboratory for purity and germination tests. Plantings from these two samplings of the same lot of seed will be expected to vary little when planted side by side. Obvious variation will be interpreted as failure of the producer or conditioner to obtain a representative sample of the lot. In such cases the producer or conditioner will be notified of the need to implement measures to insure representative sampling. Failure of a producer or conditioner to implement measures to insure representative sampling of lots will result in loss of the privilege to produce or condition certified seed until necessary corrective measures are taken.

IX. Labeling

A. Bag and Bulk Bin Labels

1. All classes of certified seed offered for sale shall have the official certification tag or bulk bin label properly affixed to each bag or container except for vegetable seeds in containers of 5 pounds or less, for which the labels need not bear the name of the kind and variety, provided the name of the kind and variety is shown elsewhere on the containers. Even if all standards have been met, seed will not be considered certified unless properly labeled.

All information the grower is required to provide to complete certification must be on file with the Seed Certification Department before certification tags or bulk bin labels will be issued.

2. The certification tag or bulk bin label attached to each bag or container serves as evidence of the genetic purity, identity, mechanical purity and germination of the seed contained therein. The following colors of tags shall be used to designate classes of seed:

- a. White for Foundation class.

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b. Purple for Registered class.

c. Blue for Certified class.

3. Certification tags or bulk bin labels must be obtained from the Seed Certification Department.

Proper attachment of tags or bulk bin labels shall be the responsibility of the person for whom the seed is being certified. Tags must be attached only to the lot of seed actually sampled and tested and for which the tags or bulk bin labels were specifically issued. The lot number on the tag must be the same as the lot number on the bag. (see VI. B. 2 [b])

If certified seed is sampled in the seed trade by the S.C. Department of Agriculture and a STOP ORDER is issued against the seed, the certification tags must be removed and returned to the Seed Certification Department.

4. The certification tag shall be attached to the container in a manner which prevents easy removal and reattachment.

a. With fabric bags or open top paper bags it is recommended that the tag be sewn on, or in the top of the bag.

b. With valve filled paper bags and plastic bags or containers (including metal) it is recommended that the labels be glued to the container with an adhesive which prevents removal without destroying the label.

c. The label may be printed directly on the container, if control of such containers can be maintained by the certifying agency.

d. Closing of paper, plastic, and metal containers will vary. The most satisfactory method is that of cementing the closure with an adhesive (glue, pressure-sensitive, thermo-plastic, etc.) which prevents entry to the container without leaving noticeable evidence of such tampering. Cementing the certification label over the enclosure is recommended where practicable.

5. If reconditioning of a lot of certified seed becomes necessary for any reason, certification tags attached to it may not be reused.

B. Bags

1. All classes of Certified seed offered for sale shall be bagged in official certification bags or in bags approved by the Seed Certification Department. It is desirable that bags other than official certification bags bear a brand name or emblem. Only new bags may be used for all classes of certified seed.

2. When seed is bagged in official certified bags but found not meeting certification standards when analyzed, the seed must be re-bagged in non-certified bags, or the bag must be defaced to the extent that all mention of certification, the Seed Certification Department and Clemson University is obliterated.

Official Note: It is a violation of the SC Seed Law to offer for sale or distribution in official certification bags and bearing no official certification label, seed that fails to meet SC Certification Standards.

X. Sale of Conditioned Seed in Bulk

A. Conditioned S. C. Registered and Certified classes of small grain or soybean seed may be sold in bulk by growers who are Approved S.C. certified seed conditioners or growers with their own conditioning equipment.

B. All field and seed standards applying to bagged seed shall apply to bulk Registered and Certified seed.

C. Only one sale of bulk Registered or Certified seed is permitted.

D. Each bin or container of bulk conditioned seed which is ready for sale or which is being transferred to storage for sale must be labeled with a "S.C. Bulk Registered or Certified Seed Label and Inventory" form. This form must be obtained from the Seed Certification Department. One copy is to be attached to the bin or container, one copy is to be maintained by the Conditioner in his files and one copy is to be provided the Seed Certification Department.

E. Whenever a sale is to be made from bulk conditioned seed, a copy of the form "Bulk Conditioned Seed Sale Certificate" (available on the seed certification website) for S. C. Registered or Certified Seed must be obtained from the Seed Certification Department, completed, signed and issued to the purchaser to accompany the seed at the time of purchase. One copy must be retained in the conditioner's files and one copy must be mailed to the Seed Certification Department.

F. Conditioned seed to be sold in bulk must be sampled in accordance with sampling procedure specified in VII. B. 3.

XI. Seed in Emergencies

It is recognized that in emergency situations caused by such things as adverse weather conditions, certain lots that would be needed to provide an adequate seed supply would be lost if regular certification standards were enforced. Under such circumstances, seed failing to meet certification standards other than those affecting genetic purity, may be certified when approved by the Seed Certification Department, provided there is no injury to the reputation of certified seed. The certification tag or bulk bin label attached to such seed shall clearly show in what respect the seed does not meet certification standards. Substandard labeling provisions will be invoked only when warranted by the condition of an entire crop, variety of class of seed.

XII. Complying with Federal and State Seed Laws

Responsibility for any obligations arising from the sale or shipment of certified seed rests with the grower or subsequent handler making the sale or shipment. Responsibility for compliance with the seed labeling requirements of the country, state or province into which certified seed is shipped rests with the seller.

XIII. Grower or Vendor Responsibility

A. The grower or vendor whose name appears on the certification tag or bulk sale certificate guarantees to the first buyer that the seed to which the tag is attached or which the bulk sale certificate accompanies is a part of the lot designated on the tag or bulk sale certificate and is a part of the lot(s) of seed represented by samples which have met all requirements for certification.

B. Responsibility for compliance with certification requirements for seed to which a certification label or bulk sale certificate is attached, and responsibility for proper use of certification labels for bulk sale certificates rests, in all cases, with the seedsman whose name appears on the label or bulk sale certificate.

XIV. Producer Records

It is the responsibility of each grower of certified seed to maintain an accurate record of all sales including the name of purchaser and address, lot numbers, amount and date. The Seed Certification Department has the right to call for specific sales records and will periodically conduct random examinations of sales records. Failure to supply such records, when requested, or failure to give satisfactory reasons for being unable to supply such records, shall forfeit a grower's privilege to produce certified seed.

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XV. Interagency Certification

A. Interagency certification is the participation of two or more official certifying agencies in performing the services required to certify the same lot or lots of seed. South Carolina Seed Certification Standards or comparable standards of other official seed certifying agencies must be met if the Seed Certification Department is to issue interagency certification tags. This includes the requirement that all certified seed to be tagged by the Seed Certification Department must be analyzed by the S. C. Department of Agriculture Seed Testing Laboratory or other agency under certain circumstances, whereby Clemson and the South Carolina Department of Agriculture mutually agree to the designated agency(ies).

B. Only those varieties declared eligible for certification by the Seed Certification Department or another Official Seed Certifying agency will be eligible for interagency certification in South Carolina.

C. Seed to be recognized for interagency certification must be received in containers carrying official certification labels, or if shipped for conditioning, carry evidence of its eligibility from another official certifying agency, together with the following information:

1. Variety (if certified as to variety) and kind
2. Quantity of seed (pounds or bushels)
3. Class of seed
4. Inspection or lot number traceable to the previous agency's records.

D. Interagency certification tags shall carry the certification identification number and clearly identify the certifying agencies involved, the variety, the kind and class of seed except for vegetable seed in containers of 5 pounds or less for which the labels need not bear the name of the kind and variety and agencies involved provided the name of the kind and variety and agencies involved are shown elsewhere on the containers.

*In some cases certification will be as to kind, on an interim basis; for example, where varieties have not been developed.

27-195. Repealed.

27-196. Vegetatively Propagated Turf-grass Certification Standards.

I. Application of General Certification Standards

A. The General Certification Standards, Clemson University Regulation 27-190, are basic and applicable and together with the following specific standards, constitute the standards for certification of vegetatively propagated turfgrasses.

B. The following specific standards constitute the standards for certification of vegetatively propagated warm season turf-grasses including bermuda, centipede, zoysia, St. Augustine and seashore paspalum.

C. The General Standards are modified as follows:

1. Foundation Turf—shall be the vegetative increase of Breeder or Foundation turf.
2. *Registered Turf—shall be the vegetative increase of Foundation turf.
3. Certified Turf—shall be the vegetative increase of Foundation or Registered turf.

4. Life of Stand: The life of the stand will continue for all classes of vegetatively propagated turf grasses as long as the varietal and mechanical purity for the class is maintained, unless life of stand is more narrowly defined by the originator or sponsoring agency.

*A grower of Registered turf may increase his acreage of Registered turf from his own production provided the increase is adjacent and planted on land under the control of the grower. The size of such increase is not to exceed a total of ten (10) additional acres. The grower can increase acreage by the equivalent number of original acres up to ten acres.

OR

Grower Application – Grower will submit application for certified turfgrass by published dates on the application. Applications can be obtained from the seed certification department or online. Payment will be submitted with the application prior to processing by the department. A late fee will apply after the application deadline. A map designating field identification must be submitted with each application. Fields will not be inspected without proper signage and maps. Those fields are subject to a reinspection fee.

II. Land Requirement.

A. A field to be eligible for the production of Foundation, Registered or Certified turf must be free of all perennial grasses and objectionable/noxious weeds. This requirement may be waived only with the approval of the program manager.

B. A field for production of Foundation or Registered sod shall be fumigated with a recommended soil fumigant.

C. No animal manures or other material potentially containing seeds shall be applied on sod to be entered for certification.

III. Field Standards.

A. General requirements

1. Unit of Certification.

A field or portion of a field may be certified. A sign must be posted in each field bearing the Kind, variety and field number year round.

2. Isolation requirements:

Plantings of vegetatively propagated turf grasses must be isolated from any other variety and other perennial grasses by an artificial barrier and/or strip at least six (6) feet wide to prevent mixing during the growing season and harvesting operation.

B. Specific Requirements (maximum permitted).

Factor	Foundation	Registered	Certified
Off-Types*	1/ 5 acres	1/ 2 acre	1/ acre
Other Living plants **	50/ acre	100/ acre	200/ acre

*Off-types shall consist of all other kinds and other varieties than the variety being produced
If factor is found in excess of standards and area flagged by inspector, roguing and/or eradication by spot spraying will be permitted to bring turf within standards.

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If field or partial field is rejected three consecutive inspections due to genetic purity, the field will be subject to inspection penalty fees until it is brought into conformity. If partial field is removed from certification, a border strip must be installed promptly, prior to the next inspection.

**Over-seeding with a non-persistent cool season grass is acceptable and the production field may be sold as certified if the field passed the last inspection.

IV. Turf Standards.

A. No noxious/objectionable weeds are permitted. Objectionable weeds are perennial sedges other than nutsedge (grass) and *Dicronidia* spp.

B. A complete record on the amount of certified turf sales will be maintained and made available to the official certifying agency. The record will include (a) class of certified turf sold (Foundation, Registered, or Certified), (b) Kind and Variety, (c) field number, (d) date of harvest, (e) amount of turf shipped (square feet, cubic feet, bushels, etc.).

V. Turfgrass Certificates.

A. An official certificate or label will accompany each shipment of certified sprigs, sod or plugs, traceable to the map required in III above and the date of digging must be indicated. Certificates can be obtained for a fee from the Seed Certification Department or online using the free provided application.

B. The tag shall show the number of square yards of sod or cubic feet or bushels of sprigs.

C. Certified Turfgrass growers will elect an authorized representative who is responsible for issuing turfgrass certificates. The representative will attend a training once every two years hosted by the Seed Certification Department. Authorized Representative will follow the guidance outlined by the seed certification department to be certain turfgrass certificates are correct and representative of certified turfgrass.

D. When grass is shipped in truck loads, one bag, block, or container of grass representing the lot shall be properly tagged to accompany the shipment.

E. A complete record on the amount of certified turf sales will be maintained and made available to the official certifying agency. The record called the Producers Estimate, will include (a) class of certified turf sold (Foundation, Registered, or Certified), (b) Kind and Variety, (c) field number, (d) date of harvest, (e) amount of turf shipped (square feet, cubic feet, bushels, etc.).

27-1000. Peanut Seed Certification Standards.

I. Application of General Certification Standards

The General Certification Standards, Clemson University Regulation 27-190, are basic and applicable and together with the following specific standards constitute the standards for certification of peanut seed.

II. Land Requirements.

A crop of peanuts will not be eligible for certification if planted on land which grew peanuts either of the previous two years unless the preceding peanut crop was grown from certified seed of the same variety.

III. Field Inspection.

A field inspection shall be made before harvest.

IV. Field Standards.

A. 1. Unit of Certification.

The unit of certification shall be a field or a portion of a field.

2. Isolation

An isolation of a minimum of ten feet is required for all classes of certified seed from other varieties or from peanuts grown from uncertified seed of the same variety shall be required.

3. Certified (all classes) seed production fields may be rejected if weeds and grasses prevent variety determination and purity by the inspector.

B. Specific Requirements

	Maximum Permitted in Each Class		
Factor	Foundation	Registered	Certified
Other varieties*	1:1000	1:500	1:200
*Other varieties shall be considered to include off-type plants that can be differentiated from the variety that is being inspected.			

V. Seed Standards

	Standards for Each Class		
Factor	Foundation	Registered	Certified
Pure seed (min.)	N.S.	97.00%	97.00%
*Inert Matter (max.)	N.S.	3.00%	3.00%
**Weed Seeds (max.)	0.01%	0.01%	0.01%
Objectionable or Noxious			
Weed Seeds	None	None	None
Other Crop Seeds	0.11%	.21%	.52%
***Other Kinds (max.)	0.01%	.01%	.02%
Other Varieties (max.)	0.10%	.20%	.50%
Germination & Hard Seed (min.)	N.S.	70.00%	70.00%
**Total weed seeds shall not exceed 5 per lb.			
***Other kinds shall not exceed 2 per lb. for Foundation and Registered, and 3 per lb. for Certified.			

VI. Size of Lots

For the purpose of issuing certification tags the standard lot size for peanuts shall be a maximum of 500 bags or 25,000 lbs.

VII. Size of Official Sample

A 2 lb. sample of peanuts is required for official purity and germination tests by the S. C. State Department of Agriculture.

VIII. Certified peanuts cannot be stored in the same building with other peanuts unless they are properly identified.

IX. Conditioning Seed

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Certified seed peanuts shall be handled through approved conditioning plants by a certifying state agency. Certified peanut seed should be treated with a recommended fungicide for the control of seedborne organisms. The rate of application and material used for treatment of the sample shall be the same for the lot.

X. Carry Over

Certified Seed peanuts cannot be carried over a year and sold as certified seed.

27-1002. Small Grain Certification Standards (Wheat, Oats, Barley, Rye, and Triticale).

I. Application of General Certification Standards

The General Certification Standards, Clemson University Regulation 27-190, are basic and applicable and together with the following specific standards constitute the standards for certification of small grains.

II. Land Requirements

A small grain crop shall be planted on land on which the last crop grown was of another crop kind other than small grains, or was planted with a class of certified seed of the same variety. A crop will not be eligible for certification if planted on land on which the same crop kind was grown the previous year, unless the previous crop was grown from a class of certified seed of the same variety.

III. Field Inspection

A field inspection shall be made after the crop has fully headed, but before harvest.

IV. Field Standards.

A. General

1. Unit of certification

The unit of certification shall be a field but a portion of a field may be approved provided the discarded portion can be harvested separately and is eliminated from certification.

2. Isolation

a. Wheat, Oats, Barley, Triticale

A field shall be separated by a strip of ground adequate to prevent mechanical mixtures. The strip may be either mowed, uncropped or planted to some crop other than the kind being certified.

b. Wheat for certification must be isolated from a field of rye by a distance of 660 feet.

c. All barley and wheat fields for the production of all classes of certified seed must be isolated by at least 990 feet from other fields which contain smut in excess of the tolerance indicated in the specific field standards.

d. A field producing any class of certified seed must be isolated by at least 660 feet from rye fields of any other variety or fields of the same variety that do not meet the varietal purity requirements of the class of seed inspected and are the same chromosome number. Isolation between diploid and tetraploid rye shall be at least 15 feet.

B. Specific

	Foundation	Registered	Certified
Other varieties (maximum)	1:3000	1:2000	1:1000
*Inseparable other crops (max.)	1:10,000	1:10,000	1:2000
**Objectionable weeds (maximum)	None	None	None
Loose and covered smut	—	1:2000	1:1000

*Inseparable other crops shall include crop plants, the seed of which cannot be thoroughly removed by the usual methods of cleaning. Rye in wheat and barley in oats are well known examples.
**Objectionable weeds shall include all S.C. Noxious weeds and other as designated by the Seed Certification Department.

V. Seed Standards

Standards for Each Class			
	Foundation	Registered	Certified
Pure Seed (min.)			
Wheat, Barley, Oats	—	98.00%	98.00%
Rye	—	97.00%	97.00%
Triticale	—	96.00%	96.00%
Inert Matter (max.)			
Wheat, Barley, Oats	—	2.00%	2.00%
Rye	—	3.00%	3.00%
Triticale	—	4.00%	4.00%
*Common Weed Seeds (max.)	—	0.05%	0.05%
**Objectionable Weed Seeds (max.)	None	None	None
***Other Crop Seeds (max.)			
Other Varieties same crop	1 seed/lb.	2 seeds/lb.	5 seeds/lb.
****Other Small Grains	1 seed/lb.	2 seeds/lb.	5 seeds/lb.
Other Kinds of Crops	1 seed/lb.	2 seeds/lb.	5 seeds/lb.
Germination (min.)			
Barley, Oats, Wheat, Triticale	—	85.00%	85.00%
Rye	—	75.00%	75.00%
Diseases	—	—	—

*For Common Weed Seeds a maximum of 20 per pound must not be exceeded in any class.
**Objectionable weeds shall include all S.C. Noxious Weeds and others as designated by the Seed Certification Department.
***For Other Crop Seeds, no combination of components may exceed 2 per pound in Foundation, 5 per pound in Registered, or 10 per pound in Certified.
****For rye in Other Small Grains, standards shall be, 0 for Foundation, 1 for Registered and 2 for Certified.
If chemically controlled seed-borne diseases are noted upon field inspection or laboratory observation, seed treatment may be required.

VI. Size of Lots

Barley	24,000 lbs. (500 bu.)
Oats	32,000 lbs. (1000 bu.)
Rye	28,000 lbs. (500 bu.)

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Triticale	24,000 lbs. (500 bu.)
Wheat	30,000 lbs. (500 bu.)

VII. Size of Official Sample

A 2 lb. sample of small grains is required for official purity and germination tests by the S.C. State Department of Agriculture.

27-1003. Soybean Certification Standards.

I. Application of General Certification Standards

The General Certification Standards, Clemson University Regulation 27-190, as adopted are basic and applicable and together with the following standards constitute the standards for certification of soybean seed.

II. Land Requirements

Soybeans shall be grown on land on which the previous crop was of another kind, or planted with a class of certified seed of the same variety or with a variety of a contrasting pubescence or hilum color.

III. Field Inspections.

A. Time of Inspection.

A field inspection shall be made after leaves have dropped and prior to harvest. For Foundation class, a flower color inspection shall also be made.

B. Handling of Crop Prior to Inspection

Off –type soybean plants or other objectionable plants, such as corn and cowpeas, should be removed from the field.

C. Foundation class should be inspected at flowering for blossom color.

IV. Field Standards

A. General

1. Unit of certification

The unit of certification shall be a field but a portion of a field may be approved provided the discarded portion can be harvested separately and is eliminated from certification.

2. Isolation

Fields of soybeans shall be separated from any other variety or uncertified seed of the same variety by a strip of ground not in soybeans and at least 5 feet wide.

B. Specific

	Maximum Permitted—Ratio of Plants		
	Foundation	Registered	Certified
Other varieties	1:5000	1:3000	1:2000

	Weeds and other crops with		
	inseparable seeds	All must be removed from field prior to harvest.	

V. Seed Standards

Factor	Standards for each class		
	Foundation	Registered	Certified
Pure Seed (minimum)	N.S.	98.00%	98.00%
Inert Matter (maximum)	N.S.	2.00%	2.00%
*Weed seeds (maximum)	0.03%	0.04%	0.05%
**Objectionable weed seed (maximum)	None	None	None
Total other crop seeds (max.)	2/lb.	4/lb.	8/lb.
***Other varieties (max.)	2/lb.	4/lb.	8/lb.
****Other kinds	1/lb.	1/lb.	2/lb.
Germination and hard seed (minimum)	N.S.	80.00%	80.00%

*Total weed seed shall not exceed 10 per lb.
**Objectionable weeds shall be S.C. noxious weeds and others designated by the Seed Certification Department.
***Off-colored beans due to environmental factors shall not be considered other varieties. Other varieties shall be considered to include off-type seeds that can be differentiated from the variety that is being analyzed.
****Corn, sunflower seed, maximum; Foundation - N.S.; Registered- None; and Certified - 1 per pound; Cowpea Seed, Maximum; Foundation and Registered - None; Certified - 1 per pound. The preceding cowpea standards apply for issuing certification tags. S.C. certified soybeans sampled by the S.C. Department of Agriculture (SCDA) or the Seed Certification Department after having been tagged must have the certification tags removed and all mention of certification eliminated on the bag if found containing any cowpeas in Foundation Seed, more than one cowpea per pound in Registered seed or more than two cowpeas per pound in Certified seed. N.S.-No Standards
****Germination for edible varieties may be lowered to 70.00%.

VI. Size of Lots

For the purpose of issuing certification tags or bulk sale certificates the standard maximum lot size for soybeans shall be 30,000 lbs.

VII. Size of Official Sample

A 2 lb. sample of soybeans is required for official purity and germination tests by the S.C. Department of Agriculture. Note: If soybean seed are to be treated with a pesticide that coats or colors the seed, a sample of the untreated, conditioned seed must be submitted for the varietal purity analysis and a sample of the treated, conditioned seed must be submitted for the germination test.

27-1005. Certification Standards for Hemp (*Cannabis Sativa* L. Subsp. *Sativa*).

I. Application of Genetic Certification Standards

A. The General Certification Standards, Clemson University Regulation 27-190, as adopted are basic and applicable and together with the following specific standards constitute the standards for certification of hemp, as well as any standards approved by the Association of Official Seed Certifying Agencies (AOSCA) Standards Council.

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B. The Genetic Standards by AOSCA are modified as follows:

1. All production of hemp crops are subject to license application approval that may be required by regulatory authorities.
2. Only varieties of hemp approved by regulatory authorities are eligible for certification.
3. The allowable area of a hemp research area or production field may be determined by state or local agencies.
4. Growers may be required by regulatory agencies to obtain THC test results according to applicable regulations. Growers may be required to submit these results to the seed certifying agency before a crop certificate is issued.

II. Land Requirements

A. Hemp crops for Foundation and Registered classes must not be grown on land which in any of the preceding 3 years produced a crop of hemp.

B. Hemp crops for Certified classes must not be grown on land which:

1. In the preceding year produced a certified crop of the same variety.
2. In either of the preceding 2 years produced a non-certified crop of hemp or a different variety of hemp.

C. Weeds

1. The presence of Broomrape (*Orobanche* spp.) in hemp crops is cause for declining certified status.

III. Field Standards

A. Crop Inspection

1. It is the grower's responsibility to ensure that fields are inspected by an authorized inspector at least once prior to swathing or harvesting, except in the case of Foundation, Registered, and Certified monoecious types and unisexual hybrids and Foundation dioecious types, in which 2 inspections are required.

2. A field that is cut, swathed or harvested prior to crop inspection is not eligible for certification.

3. Fields must be inspected at a stage of growth when varietal purity is best determined. Crops not inspected at the proper stage for best determining varietal purity may be cause for declining certified status.

4. First inspection for all classes of monoecious types must be made just before or at early flowering. First inspection for all classes of dioecious types must be made after flowering when male plants are beginning to senesce.

5. Second inspection for all classes of monoecious types, and the Foundation class of dioecious types must be made when seeds are well forming.

6. Isolation areas will be inspected for volunteer hemp plants on each inspection.

B. Isolation

1. The area, density, stage of maturity and location of any contaminating pollen source is an important factor in cross pollination, and therefore must be noted on the Seed Crop Inspection Report for consideration in determining certification status. There shall not be any *Cannabis sativa* L. plants within 100 m of the crop and not more than 10 plants/ha beyond 100 m within the isolation requirement.

2. The required isolation must be present prior to flowering and crop inspection.

Table 1 –
Minimum Isolation Distances Required Between Inspected Hemp and Other Crops

Inspected Crop	Other Crops	Isolation Distance Required (feet)
Dioecious type – Foundation	Different varieties of Hemp Non-certified crop of Hemp	15,748
	Lower certified class seed crop of same variety	6460
	Same class of certified seed crop of same variety	10
Dioecious type – Registered	Different varieties of Hemp Non-certified crop of Hemp	15,748
	Seed crop of same variety that meets Certified standards for varietal purity	5249
	Seed crop of same variety that meets Registered standards for varietal purity	3
Dioecious type – Certified	Different varieties of Hemp Non-certified Hemp	2624
	Planted with certified seed of the same variety that meets Certified standards for varietal purity	656
	Seed crop of same variety that meets Certified standards for varietal purity	3
Monoecious type – Foundation	Dioecious variety of Hemp Non-certified crop of Hemp	15,748
	Other Monoecious varieties Lower certified class seed crop of same variety	9690
	Same class of certified seed of same variety	16
Monoecious type – Registered	Dioecious variety of Hemp Non-certified crop of Hemp	15,748
	Different varieties of the same type of Hemp (Monoecious or Female Hybrid)	6460
	Seed crop of same variety that meets Certified standards for varietal purity	3230
	Seed crop of same variety that meets Registered standards for varietal purity	3
Monoecious type – Certified	Dioecious variety of Hemp Non-certified crop of Hemp	3230
	Different varieties of the same type of Hemp (Monoecious or Female Hybrid) Planted with certified seed of the same variety that meets Certified standards for varietal purity	656
	Seed crop of same variety that meets Certified standards for varietal purity	3
	Seed crop of same variety that meets Certified standards for varietal purity	3

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C. Impurity Standards

Impurities should be removed prior to crop inspection.

Any combination of impurities may be reason for declining certified status.

Table 2 indicates the maximum number of impurities permitted by AOSCA in approximately 10,000 plants of the inspected crop. The inspector makes at least 6 counts (10,000 plants each) or the equivalent to determine the number of impurities. The resulting average of these counts must not exceed the maximum impurity standards in Table 2.

Table 2 - Maximum Impurity Standards

Plot Crop	Maximum Impurity Standards per 10,000 plants in Hemp Seed Crops	
	Maximum Number of Dioecious Male Plants Shedding Pollen	Maximum Number of Off-Types or Other Varieties
Dioecious type – Foundation	–	3
Dioecious type – Registered	–	10
Dioecious type – Certified	–	20
Monoecious type – Foundation	1	3
Monoecious type – Registered	2	10
Monoecious type – Certified	100	20

IV. Seed Standards

A. Hemp Seed Standards

1. Standards for Each Class

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure Seed (min.)	98.00%	98.00%	98.00%
Inert Matter (max.) *	2.00%	2.00%	2.00%
Weed Seeds (max.)	0.10%	0.10%	0.10%
Total other crop seeds (max.)	0.01%	0.03%	0.08%
Other Varieties (max)	0.005%	0.01%	0.05%
Other kinds (max.)**	0.01%	0.03%	0.07%
Germination (min.) ***	80.00%	80.00%	80.00%
*Inert matter shall not include more than 0.5 per cent of material other than seed fragments of the variety under consideration.			

**Other kinds shall not exceed 2 per lb. (454 grams) for Foundation; 6 for Registered; 10 for Certified.
 ***Exclusive of dormancy, firm or hard seed, or any other reference to viability.

B. Guidelines for the Production of Certified Hemp Seed

1. Definitions

a. “Hemp” (Cannabis sativa L. supsp.sativa.) includes varieties of these kinds:

i. Dioecious type: with male and female flowers on separate plants.

ii. Monoecious type: with male and female flowers on the same plant.

iii. (Unisexual Female) Hybrids: with sterile male and fertile female flowers on the same plant.

b. “Approved Cultivar” means any variety designated as eligible for production by federal or local regulatory authorities

c. “THC” means delta-nine ($\Delta 9$) tetrahydrocannabinol, which is the component of Hemp regulated by federal or local regulatory authorities.

Although traditionally a crop with a Dioecious plant type, many Monoecious varieties of hemp (Cannabis sativa L. supsp.sativa) have been developed. Hemp is sexually polymorphic and often produces many different ratios of intersexual plant types that can increase roguing requirements. Variety descriptions normally define these ratios.

d. “Foundation Seed Production” includes any means of processing or conditioning of seed from a Foundation production area which may contaminate the varietal purity of the seed is prohibited.

C. Area of Foundation Fields

When unforeseen circumstances do not permit proper maintenance of the entire field, it is recommended that the area be reduced by destroying part of the field or by isolating a part to meet the requirements of a lower status of certified seed. The remainder of the field must meet the requirements for Foundation field production.

The area of a Foundation field includes the “walkways” provided within the field to facilitate effective roguing.

D. Recommended Production Procedures

Field Planting

1. Fields should be planted to facilitate inspection, roguing and harvesting.

2. Fields should be planted in areas easily accessible for frequent maintenance and to provide the maximum protection from outside sources of contamination, such as roadways and building sites.

3. Regulations for land requirements are minimum standards and caution is necessary in choosing land, as volunteer growth from previous crops may vary according to local conditions.

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4. The regulations for isolation are minimum standards. It is always to the grower's advantage to provide more isolation than required. When planting Foundation fields, specific requirements may influence the location and size of the field. It is a safeguard if adjacent crops are the same variety as the field and are inspected for certified status.

E. Roguing

1. The field must be thoroughly and intensively rogued many times throughout the crop season.

Off-type male flowers must be removed before the receptive stage of female flowers in the inspected crop.

2. The numbers and kinds of plants removed should be recorded and described on the appropriate forms.

3. All male flowers rogued from the crop must be removed from the production area and burial is recommended.

4. Regrowth of rogued flowers or plants must be prevented.

F. Harvesting, Cleaning and Storing

1. A seed grower should have access to the necessary equipment for harvesting and cleaning the seed from the field in such a manner as to ensure that the varietal purity of the seed is maintained.

2. The seed should be stored, in compliance with federal or local regulations, in a clean, cool, dry area.

3. The seed containers should be labelled for identification.

It is recommended that not more than one variety of Hemp be grown under the management of one grower.

V. Vegetatively Propagated Hemp (*Cannabis Sativa* L. Subsp. *Sativa*) Certification Standards

A. Explanation of General Standards as Applied to Hemp

The General Certification Standards, Clemson University Regulation 27-190, as adopted are basic and applicable and together with the following specific standards constitute the standards for certification of Vegetatively Propagated Hemp standards as well as classes and sources of certified Planting stock.

B. Definitions

“Clones” are asexually propagated progeny genetically identical to the stock plant.

“Structure or Field” is the production area enclosed by natural borders such as ditches, tree lines, buildings, roads, or an enclosed growth facility.

“Micropropagation” is the science of plant multiplication in-vitro.

“Cuttings” are portions of stems containing leaves which are rooted to produce clones.

“Breeder Plant Stock” (Source Seed) is propagation material identified by the breeder, or the breeder's representative. The breeder must also declare and document the way parent lines are selected and how the Plant Stock is maintained.

“Mother Plant” is a plant produced from a Breeder Plant Stock.

“Certified Plants” are plants produced from Mother Plants.

“Certified Plants” may be used to produce Certified stock in the growth facility or D1 Daughter stock.

C. Certified plants are propagated as follows:

1. Mother Plants may be cut repeatedly to produce D1 Daughter Plants. D1 Daughter Plants are produced by cuttings from Mother Plants.

2. D1 Daughter plants may be cut repeatedly to produce D2 Daughter Plants. D2 Daughter plants are produced by cuttings from D1 Daughter Plants.

3. D2 Daughter plants may be cut repeatedly to produce D3 Daughter plants. D3 Daughter plants are produced by cuttings from D2 Daughter plants.

The grower shall retain documentation of the parent being used to generate clones.

All grower records and grower developed Best Management Practices (BMPs) related to the production of hemp clones shall be available for inspection by the Certifying Agency.

D. Mother Plant Production

1. All Mother plants are to be inspected by Certifying Agency periodically.

2. Inspection of structures and fields will conform to documented and verifiable production standards listed below.

E. Growth Facilities and Field Production

1. Production Requirements for Growth Facility Production

a. Facility is to be apparently free of diseases, insects, and other pests.

b. Hemp clones are to be handled in such a manner as to prevent co-mingling of varieties or types.

c. Facility is to have sufficient physical barriers between growth areas of hemp and other potential contaminating crops prior to flowering and inspection to prevent cross-contamination of type.

2. Production Requirements for Open Field Production

a. Field Eligibility - Crops should not be grown on land where remnant seed from a previous crop may germinate and produce volunteers that may cause contamination. Crops for Mother Plants must not be grown on land that produced another crop of hemp within the previous five years. Crops for Certified class must not be grown on land that had a hemp crop in the preceding three years.

b. Field Isolation – Ten feet or an appropriate barrier to alleviate accidental mixing of plants.

F. Inspections

1. Grower Responsibility

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a. Maintain certification standards.

2. Certifying Agency Responsibility

a. The Agency will inspect growth facilities and fields and to audit compliance with the grower developed BMPs and their effectiveness.

b. Mother plants are inspected within seven days before first cutting of daughters for certification.

c. Daughter plants are inspected within seven days after planting.

3. General Requirements - Plant increase standards are described in Section I, C,3.

G. General Inspection Standards of Plants

1. Plants

a. Apparently free of diseases, insects, and other pests.

b. True-to-type characteristics.

Reference Hemp Transplant Certification Standards

VI. Hemp Transplants (*Cannabis Sativa* L. Subsp. *Sativa*) Certification Standards

A. Application and Amplification of General Certification Standards

1. The General Certification Standards, Clemson University Regulation 27-190, as adopted are basic and applicable and together with the following specific standards constitute the standards for certification of hemp transplants; a.k.a seedlings, plugs.

2. Section V. of the General Standards is amplified as follows to apply specifically to hemp seedling certification.

3. All Certified transplants must be grown from a class of certified seed or certified clones. Proof of seed/clone eligibility shall be established by providing either a certified tag/label with invoice showing the lot number and pounds received or documentation of clone propagation under clone standards found in the Seed Certification Handbook.

4. Seed coated or pelleted by non-approved conditioners will not be eligible for certification

5. All containers must be labeled in a manner that maintains the source, identity and certification eligibility of the transplants. All containers offered for sale must be identified by the official seed certification tag/label. The tag/label must be affixed (stapled, for example) to trays so tags/labels are not misplaced.

B. Definitions

1. Transplants: hemp plants that originate from either seed or clones that are kept in a vegetative state (before flowering) that will be moved to another production site.

2. Clones: are asexually propagated progeny genetically identical to the stock plant.

3. Seedlings: plants grown from seeds.

4. Plugs: young plants raised in small, individual cells, intended for transplanting at another production site.

C. Growth Facility, Field and Transplant Standards

1. Traditional outdoor plant beds (fields) will be inspected at least two times for phenotypic purity, isolation, general physical condition, and appearance of plants.

2. Growth facility produced plants shall be inspected at least two times for varietal labeling, phenotypic purity, isolation, general physical condition, and appearance of plants.

3. Maximum off-type or other variety shall not exceed 0.2%, or 20 in 10,000. Non-conforming plants must be removed and destroyed.

4. At the time of the final inspection, the number of transplants produced must be verified by agency personnel.

5. Transplants may be rejected for non-compliance with these standards.

6. Inspectors may also reject transplants due to unsatisfactory appearance such as any plants that are diseased, insect infestation, or otherwise stressed or any condition which prevents thorough inspection.

Unlabeled or inadequately labeled transplants will be ineligible for certification.

7. At the final inspection, transplants may be collected for post-control grow outs or other identification verification tests if required by agency.

8. Certifying agency personnel may conduct additional inspections as necessary to ensure certification standards are met.

D. Growth Facility, Plant Bed Soil Mix Requirements

1. Hemp transplants must not be grown on traditional outdoor plant beds (fields) which:

a. In either of the preceding two years produced a non-certified crop of hemp or a different variety of hemp.

b. In the preceding year produced a certified crop of a different variety

2. Hemp transplant growers using growth facilities must use a SOP (Standard Operating Procedure) and document that the facility is free of any plant material from a previous crop.

3. For growth facility production of transplants, the soil mix must be new, soil-less media, or sanitized soil mixes.

4. The presence of Broomrape (*Orobanche* spp.) in hemp crops is cause for declining Certified status.

E. Growth Facility Isolation Standards

When two or more varieties are being grown in the same greenhouse or traditional outdoor plant bed (field), there must be an 18” unplanted area between the varieties. The production area, flats and/or containers for each variety must be clearly labeled in a manner that prevents mixing or misidentification.

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Growers must handle transplants throughout the growing, harvesting, and transplant sales in a manner that prevents the accidental or mechanical mixture of containers of different varieties.

F. Labeling Standards

All certified transplants offered for sale must be labeled with official certification tags or labels. Each container of transplants must have an agency certification label firmly attached to be sold as certified transplants. Failure to properly label transplants at the time of sale, will revoke the certification status and will result in not being eligible for sale as certified transplants.

VII. Feminized Hemp Seed (FHS) (Cannabis Sativa L. Subsp. Sativa) Certification Standards

A. Application of Genetic Certification Standards.

The General Certification Standards, Clemson University Regulation 27-190, as adopted are basic and applicable and together with the following specific standards constitute the standards for certification of Feminized Hemp Seed and are further modified as follows:

1. To be eligible for seed certification under this standard, hemp varieties must have received favorable action by one or more of the following processes recognized by AOSCA, including:

- a. AOSCA Variety Review Board; or
- b. Plant Variety Protection office or Breeder Rights statements; or
- c. Any individual AOSCA vested member agency; or
- d. Acceptance for certification under the OECD seed schemes.

2. Designation of Classes of Seed. Only the Certified class is recognized in the production of feminized hemp seed. The Foundation class is allowed for the purpose of variety maintenance.

3. A feminized seed variety to be certified must be produced from seed or clonal stocks approved by the official certifying agency. These seed and clonal stocks shall consist of female lines and chemically assisted pollen shedding female lines of any class of certified seed or clones.

4. Growers may be required by regulatory agencies to obtain THC test results according to applicable regulations. Growers may be required to submit THC test results to the seed certifying agency before the seed can be certified.

B. Definitions

1. Hemp. "Hemp" is defined by the U.S. Domestic Hemp Production Program as the plant species *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis or as otherwise defined by federal law.

2. Dioecious type: with male and female flowers on separate plants.
3. Monoecious type: with male and female flowers on the same plant.
4. Reversed female: female plants that are induced to produce pollen in replacement of true male plants.

5. Hermaphroditic plants: plants exhibiting male and female flowers, not true females.
6. Feminized Hemp Seed (FHS): the progeny of a dioecious female plant that has been pollinated with pollen derived from the same or another dioecious female plant that has been induced to produce pollen. It is a true female plant with XX chromosomes.
7. Pollen parent: a reversed female plant from the female line or another reversed female line to create a hybrid.
8. Seed parent: female plants used to produce feminized hemp seed.
9. Sporting male: is a female plant that produces sterile male flowers.
10. Variety: a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.
11. Volunteer plant: a hemp plant that was not intentionally planted and is the result from a previous crop.
12. Approved Cultivar: any variety designated as eligible for production by federal or local regulatory authorities.
13. THC: delta-nine ($\Delta 9$) tetrahydrocannabinol, which is the component of hemp regulated by federal or local regulatory authorities.

C. Growth Facility and Land Requirements

1. Growth facility must only contain certified hemp production. Multiple FHS varieties may be present but no other hemp plants are allowed except for pollen parent plants that are the pollen source.
2. Growth facility must be free of all plants for a minimum of six weeks prior to receiving plants at the beginning of the crop year or production season unless the previous crop was the same variety. If sanitation is used to reduce the hemp free period, a sanitation plan must be submitted to the certifying agency. Pollen sanitation is not required if the entire greenhouse facility produces only one pollen source and other female lines are continually rogued to prevent contaminating pollen sources.
3. Certified feminized hemp seed crops must not be grown on land which:
 - a. In either of the preceding two years produced a non-certified crop of hemp or a different variety of hemp.
 - b. In the preceding year produced a certified crop of a different variety.
4. Weeds
 - a. The presence of Broomrape (*Orobanch* spp.) in hemp crops is cause for rejection.
 - b. Excessive weeds obscuring field inspection shall be grounds for rejection.

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D. Growth Facility and Field Standards

1. Crop Inspection

a. It is the grower's responsibility to ensure that growth facility and field inspections are conducted by the authorized inspector at least twice prior to swathing or harvesting.

b. A growth facility or field that is cut, swathed or harvested prior to crop inspection is not eligible for certification.

c. Inspections of pollen parent plants and seed parent plants must be at a stage of growth when varietal purity is best determined. Crops not inspected at the proper stage for best determining varietal purity may be cause for rejection. A minimum of two inspections are required.

d. First inspection for pollen parent and seed parent plants must be made just before or at early flowering. The pollen parent must be inspected prior to pollen collection or dispersal.

e. Second inspection for pollen parent and seed parent types must be completed after pollen shed and seed fill.

f. Isolation areas will be inspected for any volunteer hemp plants on each inspection.

2. Specific

a. For the production of FHS varieties via pollen shedding by the chemically reversed female plants.

i. Detailed records shall be created and maintained on the pollen parent, such as the chemical application dates, concentration, and the pollen collection date.

ii. Pollen storage containers (if used) must be marked with lot number and source.

iii. Chemically reversed female plants (pollen parent) must be removed and destroyed after pollen collection is complete.

iv. Male, sporting male, and hermaphroditic plants must be removed from the growth facility or field and a record of roguing activities must be maintained.

3. Isolation

a. Certified feminized hemp seed fields must be isolated from all other contaminating pollen sources by the distances provided in Table 1. Roguing to eliminate all possible contaminating pollen must be accomplished prior to visible flower formation.

b. Greenhouse production of Certified feminized seed is allowed if mechanical isolation of pollen sources is provided. Additional greenhouse requirements include:

i. Method of pollen exclusion must be documented and submitted to the certifying agency.

ii. Each greenhouse facility is limited to one variety or multiple varieties when one pollen parent is utilized for all varieties.

iii. Each variety must be clearly labeled and easily identifiable from one another.

c. Off season greenhouse production when outside pollen sources are not alive may reduce the isolation requirement.

Table 1
Minimum Isolation Distances Required Between Inspected Hemp and Other Crops

Inspected Crop	Other Hemp Crops	Isolation Distance Required (feet)
Feminized Hemp Seed	- Variety of hemp, or other contaminating pollen source that has pollen shedders present, this includes other greenhouse complexes - Non-certified crop of hemp - Different varieties of the same type of hemp with no male shedders present in field that is not for seed production. - Planted with certified seed of the same variety that meets Certified standards for varietal purity and no male shedders present in field	15,748
	- Certified seed crop of the same variety that meets Certified standards for varietal purity	3

E. Impurity Standards

1. Impurities should be removed prior to crop inspection.
2. Any combination of impurities may be reason for declining certified status.
3. Table 2 indicates the maximum number of impurities permitted by AOSCA in approximately 10,000 plants of the inspected crop. The inspector makes at least 6 counts of a total of at least 10,000 plants to determine the number of impurities. The resulting average of these counts must not exceed the maximum impurity standards in Table 2.

Table 2

Inspected Crop	Maximum Impurity Standards per 10,000 plants in Hemp Seed Crops	
	Maximum Number of Plants Shedding Pollen	Maximum Number of Off-Types or Other Varieties
Feminized Hemp Seed	0	20

F. Seed Standards

1. Feminized Hemp Seed Standards

Factor	Feminized Hemp Seed Standards for each class	
	Foundation	Certified
Pure Seed (min.)	98.00%	98.00%
Inert matter (max.)	2.00 %	2.00%
Weed seeds (max.)	0.10%	010%
Total other crop seeds (max.)w	0.01%	0.08%
Other varieties (max.)	.005%	0.05%

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Other kinds (max.) **	0.01%	0.07%
Germination (min.)	80.00%	80.00%
Feminized Seed ***	99.00%	99.00%
*Inert matter shall not include more than 0.5 percent of material other than seed fragments of the variety under consideration. **Other kinds shall not exceed 2 per lb. (454 grams) for Foundation; 10 for Certified. ***Determined by Variety Verification Trial or approved molecular testing		

G. Guidelines to Produce Certified Hemp Seed

1. Certified Seed Production

Although traditionally a crop with a Dioecious plant type, many Monoecious varieties of hemp (*Cannabis sativa* L. subsp. *sativa*) have been developed. Hemp is sexually polymorphic and often produces many different ratios of intersexual plant types that can increase roguing requirements. Variety descriptions normally define these ratios.

a. Quality Assurance (QA) Program standards will be equal to or exceed the AOSCA Standards for certification for varietal purity of the Certified class of seed, with the following exceptions:

i. Varietal eligibility requirements

ii. Seedstock eligibility

b. Any means of processing or conditioning of seed from a production area which may contaminate the varietal purity of the seed is prohibited.

2. Area of Fields

a. When unforeseen circumstances do not permit proper maintenance of the entire field, it is recommended that the area be reduced by destroying part of the field or by isolating a part to meet the requirements. The remainder of the field must meet the requirements for certified field production.

b. The area of a field includes the “walkways” provided within the field to facilitate effective roguing and inspecting.

3. Recommended Production Procedures

Field Planting

a. Fields should be planted to facilitate inspection, roguing and harvesting.

b. Fields should be planted in areas easily accessible for frequent maintenance and to provide the maximum protection from outside sources of contamination, such as roadways and building sites.

c. Regulations for land requirements are minimum standards and caution is necessary in choosing land, as volunteer growth from previous crops may vary according to local conditions.

d. The regulations for isolation are minimum standards. It is always to the grower’s advantage to provide more isolation than required. When planting fields, specific requirements may influence the location and size of the field. It is a safeguard if adjacent crops are the same variety as the field and are inspected for certified status.

4. Roguing

- a. The field must be thoroughly and intensively rogued many times throughout the crop season.
- b. Off-type male flowers must be removed before the receptive stage of female flowers in the inspected crop.
- c. The numbers and kinds of plants removed should be recorded and described on the appropriate forms.
- d. All male flowers rogued from the crop must be removed from the production area and burial is recommended. The male flowers should be bagged during removal to prevent unwanted pollen transfer during removal.
- e. Regrowth of rogued flowers or plants must be prevented.

5. Harvesting, Cleaning and Storing

- a. A seed grower should have access to the necessary equipment for harvesting and cleaning the seed from the field in such a manner as to ensure that the varietal purity of the seed is maintained.
- b. The seed should be stored, in compliance with federal or local regulations, in a clean, cool, dry area.
- c. The seed containers should be labelled for identification.

It is recommended that not more than one variety of Hemp be grown under the management of one grower or one distinct facility.

Fiscal Impact Statement:

None.

Statement of Rationale:

Adding industrial hemp regulations to the certified seed standards will provide researchers guidance on developing hemp varieties that will meet requirements of the seed certification program in turn allowing South Carolina hemp growers to have access to seed that has appropriate germination and purity standards. For turfgrass standards, the changes proposed will allow the grower more flexibility to meet standards with the approval of the seed certification department. Other proposed changes are to update wording or remove crops that are no longer in the program.

Document No. 5033
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: 1976 Code Sections 44-1-140(3) and 44-1-150

61-34. Raw Milk for Human Consumption.
 61-34.1. Pasteurized Milk and Milk Products.

Synopsis:

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Pursuant to R.61-34, Raw Milk for Human Consumption, the Department of Health and Environmental Control (“Department”) provides sanitation oversight for the production and sale of raw milk that has not been pasteurized for food safety in South Carolina. The Department is amending R.61-34 to address the further processing and sale of raw milk products, specifically, cream, buttermilk, and kefir, and to add additional consumer advisory changes that would be needed for products that receive further processing or become necessary as a byproduct of further processing. The revisions also update raw milk standards as needed to align certain requirements with the 2019 version of the U.S. Food and Drug Administration Pasteurized Milk Ordinance (“PMO”).

Pursuant to R.61-34.1, Pasteurized Milk and Milk Products, the Department provides sanitation oversight of the production and sale of pasteurized milk and milk products for both intrastate and interstate commerce. The Department is adopting requirements of the 2019 PMO through the amendment of R.61-34.1. The regulation is currently based on the 2013 PMO and will not meet the federal standards after this year. The amendment of R.61-34.1 to incorporate the updated requirements of the 2019 PMO will enable South Carolina milk producers to continue to meet federal standards and ship milk and milk products for interstate commerce. The Department further provides clarification of requirements for potable water sources.

The Department is also revising R.61-34 and R.61-34.1 for clarity and readability, grammar, punctuation, and codification, and other regulatory text improvements. The amendments to both regulations also include updates to administrative and enforcement provisions.

The Department had a Notice of Drafting published in the March 27, 2020, *South Carolina State Register*.

Instructions:

Replace R.61-34 and R.61-34.1 in their entirety with these amendments.

Text:

61-34. Raw Milk for Human Consumption.

(Statutory Authority: S.C. Code Sections 44-1-140(3) and 44-1-150)

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SECTION XIV.	Severability Clause

SECTION I. Definitions and Standards.

A. The following definitions shall apply in the interpretation and the enforcement of this Regulation:

1. Abnormalities of Milk means

a. Abnormal Milk: Milk that is visibly changed in color, odor, and/or texture.

b. Undesirable Milk: Milk that, prior to the milking of the animal, is known to be unsuitable for sale, such as colostrum.

c. Contaminated Milk: Milk that is not sellable or is unfit for human consumption following treatment of the animal with veterinary products, i.e. antibiotics, which have withhold requirements or treatment with medicines or insecticides not approved for use on dairy animals by the United States Food and Drug Administration (FDA) or the United States Environmental Protection Agency (EPA).

2. Adulterated: means raw milk or raw milk products are deemed to be adulterated if the product:

a. Bears or contains any poisonous or deleterious substance in a quantity that may render it injurious to health;

b. Bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by state or federal regulation, or is in excess of such tolerance if one has been established;

c. Consists, in whole or in part, of any substance unfit for human consumption;

d. Has been produced, processed, prepared, packaged, or held under unsanitary conditions;

e. Is packaged in a container which is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

f. Has any substance added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;

g. Is in violation of Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 342); or

h. Contains any animal drug residues.

3. Automatic Milking Installation (AMI) means the entire installation of one (1) or more automatic milking units, including the hardware and software utilized in the operation of individual automatic milking units, the animal selection system, the automatic milking machine, the milk cooling system, the system for cleaning and sanitizing the automatic milking unit, the teat cleaning system, and the alarm systems associated with the process of milking, cooling, cleaning, and sanitation.

4. Buttermilk means a cultured dairy product that is produced by culturing milk or cream with characterizing microbial organisms and which contains at least 3.25% milkfat and at least 8.25% milk solids not fat.

5. Clean means the effective and thorough removal of product and/or contaminants from direct product contact surfaces.

6. Code of Federal Regulations (CFR) means the current Code of Federal Regulations.

7. Common Name means the generic term commonly used for domestic animals, i.e., cattle, goats, sheep, horses, water buffalo, etc.

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8. Craft Usage means the use of raw milk to create products such as soap, candles, or other non-edible products.

9. Cream means a dairy product that is composed of the higher-fat layer separated from the top of milk and which contains at least 18% milkfat.

10. Dairy Farm means any place or premises where one (1) or more lactating animals (cows, goats, sheep, water buffalo, or other hooved mammals) are kept for milking purposes and from which a part or all of the milk or milk products are provided, sold, or offered for sale.

11. Department means the South Carolina Department of Health and Environmental Control and its representatives.

12. Drug means:

a. A substance recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them;

b. A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;

c. A substance (other than food) intended to affect the structure or any function of the body ; and

d. A substance intended for use as a component of a substance specified in clause a, b, or c but does not include devices or their components, parts, or accessories.

13. Goat Milk means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy goats. Goat milk sold in retail packages shall contain not less than 2.5 percent milkfat and not less than 7.5 percent milk solids not fat. Goat milk shall be produced according to the sanitary standards of this Regulation.

14. Kefir means a cultured dairy product that is produced by fermentation of milk by *Lactobacillus bulgaricus*, *Lactobacillus acidophilus*, and *Lactobacillus caucasicus* and which contains not less than 3.5% milk fat or, if made from goat milk, not less than 2.8% milkfat.

15. Milk means the normal lacteal secretion of hooved mammals, practically free of colostrum, obtained by the complete milking of one (1) or more healthy hooved mammals. This product shall be produced according to the sanitary standards of this Regulation. Hooved mammals milk shall include bovine milk, goat milk, sheep milk, water buffalo milk, etc.

16. Milk or Milk Products Distributor means any person who offers for sale milk or milk products that have been packaged at a permitted location.

17. Milk or Milk Products Plant means any place, premises, or establishment where milk or milk products are collected, handled, processed, and stored or prepared for distribution.

18. Milk or Milk Products Producer means any person who operates a dairy farm and provides, sells, or offers milk or milk products for sale that were produced at the farm.

19. Misbranded Milk or Milk Product means any milk or milk product when:

a. The product's container bears or accompanies any false or misleading written, printed, or graphic matter;

- b. The milk or milk product does not conform to the definitions as contained in this Regulation; or
- c. The product is not labeled in accordance with this Regulation.

20. Officially Designated Laboratory means a commercial laboratory authorized to do official work by the Department or a milk industry laboratory officially designated by the Department for the examination of producer samples of SC Grade A raw milk and raw milk products for human consumption and commingled milk tank truck samples of raw milk and raw milk products for drug residues and bacterial limits.

21. Person means any individual, producer, distributor, plant operator, partnership, corporation, company, firm, trustee, association, or institution.

22. Raw Milk means milk that has not received any heat treatment such as pasteurization or any other further processing.

23. Raw Milk Products means unpasteurized buttermilk, kefir, or cream.

24. Risk means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

25. Sanitization means the application of any effective method or substance to a clean surface for the destruction of pathogens and of other organisms as far as is practical. Such treatment shall not adversely affect the equipment, the milk or milk product, or the health of consumers and shall be acceptable to the Department.

26. Sheep Milk means the normal lacteal secretion practically free of colostrum, obtained by the complete milking of one (1) or more healthy sheep. Sheep milk shall be produced according to the sanitary standards of this Regulation.

27. Water Buffalo Milk means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy water buffalo. Water buffalo milk shall be produced according to the sanitary standards of this Regulation.

B. Standards.

All raw milk and raw milk products for human consumption shall be bottled, packaged, and sealed at the same location where they were produced, or, in the case of raw milk products, at a location under the direct control of the raw milk producer that has been approved by the Department, and all raw milk and raw milk products shall conform to the chemical, physical, bacteriological, and temperature standards as well as the sanitation requirements of this Regulation.

SECTION II. Adulterated or Misbranded Raw Milk or Raw Milk Products.

A. No person shall, within South Carolina or its jurisdiction, produce, provide, sell, offer, barter, or expose for sale, or have in possession with intent to sell any raw milk or raw milk product that is adulterated or misbranded.

B. Any adulterated or misbranded raw milk or raw milk product may be impounded by the Department and disposed of in accordance with applicable laws or regulations.

C. Raw milk and raw milk products will be examined by the Department in the course of routine or complaint inspections, outbreak investigations, or as otherwise deemed appropriate by the Department to determine that they are not adulterated or misbranded. The Department may, upon written notice to the owner or person in charge, place a hold order on any raw milk or raw milk product that it determines, or has probable cause to

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believe, to be unwholesome or otherwise adulterated or misbranded. Under a hold order, raw milk and raw milk products shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on raw milk or raw milk products by the Department, and neither such raw milk or raw milk products nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Department except if ordered by a court of competent jurisdiction.

D. Adding water to raw milk will be considered a violation of this Regulation if the raw milk contains in excess of three percent (3%) water. A cryoscope shall be used to determine percentage of water by measuring the freezing point of the raw milk. When the freezing point of raw milk is greater than 32.945°F (-0.525°C), the farm shall be notified that the raw milk apparently contains added water. If a second violation of this freezing point standard occurs within two (2) years, milking or processing operations may be observed, and samples will be collected and analyzed. The freezing point obtained from raw milk collected during the observation shall be used to determine a definite freezing point standard from the farm. A violation of the determined freezing point standard for a specific operation by over three (3%) percent within two (2) years of setting the standard for the individual farm shall call for a two (2) calendar day permit suspension or equivalent.

E. When raw milk or raw milk products are found to be adulterated by the presence of drugs, pesticides, herbicides, or other poisonous substances, they shall be placed under a hold order and additional samples analyzed. Raw milk or raw milk products found to be adulterated shall be disposed of until analysis shows the product not to be adulterated. If testing reveals raw milk or raw milk products are positive for drug residues, the raw milk or raw milk products shall be disposed of in a manner that removes it from the human or animal food chain. The Department shall immediately suspend the producer's SC Grade "A" permit, or equally effective measures shall be taken, to prevent the sale or distribution of raw milk or raw milk products containing drug residues, and a penalty shall be imposed. Future sales or distribution are prohibited until subsequent testing reveals the raw milk or raw milk products are free of drug residue. The SC Grade "A" producer's permit may be reinstated to allow the sale or distribution of raw milk or raw milk products when a representative sample taken by the Department from the producer's raw milk or raw milk products is no longer positive for drug residue. Whenever a drug residue test is positive, a recall shall be initiated, and an investigation shall be made to determine the cause. The farm inspection must be completed by the Department to determine the cause of the residue and actions that need to be taken to prevent future violations, including on-farm changes in procedures necessary to prevent future occurrences.

SECTION III. Permits.

A. It shall be unlawful for any person who does not possess a permit from the Department to manufacture, bring into, send into, or receive into South Carolina or its jurisdiction, have in storage, sell, barter, or offer for sale therein, or offer to give away any raw milk or raw milk products defined in this Regulation, including but not limited to raw milk for craft usage.

B. Raw milk and raw milk products that have been manufactured under the provisions of this Regulation may be further distributed or sold at retail locations in South Carolina by distributors and retailers. Distributors and retailers are not required to have a permit, provided that the product has not been repackaged or relabeled.

C. Although distributors and retailers listed in Section III.B do not require a permit, the Department retains the authority to conduct an investigation in response to a complaint. The Department may require corrective action and issue orders as deemed necessary in response to food safety or health risks identified during the investigation.

D. Only a person who complies with the requirements of this Regulation shall be entitled to receive and retain a permit. Permits shall not be transferable to other persons and/or locations or used by a person other than the permit holder.

E. Every producer of raw milk or raw milk products for human consumption shall hold a valid permit issued by the Department prior to beginning operation. No permit shall be issued until all parts of the operation meet the requirements of this Regulation.

F. The production, distribution, storage, and sale of unpasteurized milk products other than the raw milk products defined in this Regulation (unpasteurized buttermilk, kefir, and cream) are prohibited in South Carolina and will be considered to be violations of this Regulation, except that aged raw milk cheese may be produced in accordance with the provisions of R.61-36, Manufactured Grade Dairy Products.

G. The addition of flavoring or other ingredients to raw milk or raw milk products other than cultures, citric acid, or salt needed for the processing of buttermilk and kefir is prohibited; provided, kefir may also contain harmless edible stabilizers subject to the limitations in VIII.C of this Regulation.

H. The Department may deny a permit to produce, distribute or sell raw milk or raw milk products for human consumption when the applicant or facility has a history of noncompliance with other standards, regulations, or statutes governing milk and milk products.

SECTION IV. Inspection of Dairy Farms and Plants Producing and Packaging Raw Milk and Raw Milk Products for Human Consumption.

A. Each dairy farm or plant manufacturing raw milk or raw milk products for human consumption shall be inspected by the Department prior to the issuance of a permit. Following the issuance of a permit, the Department shall inspect each dairy farm or plant at a frequency determined by the risk level assigned to the product(s) being manufactured or distributed, or as otherwise deemed necessary by the Department. Inspections of dairy farms will be made at milking time when possible.

B. The Department shall conduct inspections and investigations as are necessary for the enforcement of this Regulation.

C. The inspector will notify the owner or other responsible person of the intent to inspect upon arrival at the premises.

D. A copy of the inspection report will be provided, either electronically or in paper form, to the permit holder, manager, or other duly authorized representative.

E. Every raw milk producer shall, upon request of a Department representative, permit the Department access to all parts of the establishment or facilities to determine compliance with the provisions of this Regulation. A permit holder, manager, or other duly authorized representative shall furnish the Department, upon request and for official use only, a true statement of the actual quantities of raw milk or raw milk product purchased and sold, and a list of all sources of ingredients, records of inspections, records of tests, and cooling time and temperature records.

F. Should a violation of any requirement set forth in Section VII or Section VIII be found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three (3) calendar days. Any violation of a requirement of Section VII or Section VIII may result in enforcement action pursuant to Section XII of this Regulation. When the Department at any time finds that a critical processing element violation involving conditions whereby direct contamination of raw milk or raw milk products is occurring, the Department shall take immediate action to prevent transfer from the vessel or location of such raw milk or raw milk products until such violations of critical processing element(s) have been corrected.

G. It shall be unlawful for any person who, in an official capacity, under the provisions of this Regulation obtains any information of disposition of milk, or results of inspections or tests thereof to use such information to his/her own advantage or to reveal it to any unauthorized person.

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SECTION V. The Examination of Raw Milk and Raw Milk Products for Human Consumption.

A. Samples of raw milk or raw milk products for human consumption may be taken for analysis for public health purposes, at any reasonable time or place, and examined for any other public health reason by the Department.

B. Samples of raw milk and raw milk products for human consumption shall be collected and tested prior to a permit being issued. No permit shall be issued until the milk and milk products meet the requirements of Section VII and Section VIII.

C. The producer shall provide to the Department satisfactory pathogenic testing results prior to:

1. receiving a permit and beginning production and/or distribution; or

2. reinstatement of a permit that has been suspended because of positive results of testing for pathogenic organisms in association with a suspected outbreak of disease. In testing associated with a suspected outbreak of disease, the Department shall provide up to two (2) tests at no cost to the producer; pathogen testing required beyond these two (2) tests shall be the responsibility of the producer.

D. Samples of raw milk and raw milk products shall be collected by the producer or the Department, as directed, at a frequency that is deemed appropriate by the Department based on the level of risk of the product. The Department will require sampling for bacterial counts, somatic cell counts, coliform, cooling temperatures, drugs, pesticide residue, and/or pathogenic organisms as deemed appropriate by the Department. Sampling will be conducted in accordance with Department standard operating procedures for sampling of raw milk and raw milk products.

E. Whenever two (2) of the last four (4) consecutive bacterial counts, somatic cell counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the standard for the raw milk or raw milk products as defined in this Regulation, the Department shall send written notice thereof to the person concerned. This notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed the standard. An additional sample shall be taken within twenty-one (21) calendar days of the sending of such notice, but not before the lapse of three (3) calendar days. The Department shall suspend the permit in accordance with Section XII whenever the standard is violated by three (3) of the last five (5) bacterial counts, coliform determinations, cooling temperatures, or somatic cell counts.

F. When sampling for pathogenic organisms is conducted in association with a suspected outbreak of disease, and the samples test positive for pathogenic organisms, such positive finding of pathogenic organisms shall be considered an imminent health hazard, and the product involved shall be disposed of and not be offered for sale. The Department shall immediately suspend the permit. The permit shall remain suspended until a representative sample containing a minimum of two (2) consecutive milkings are found to be free of pathogenic organisms.

G. Samples shall be analyzed at an official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the latest edition of Standard Methods for the Examination of Dairy Products (SMEDP) of the American Public Health Association, and the latest edition of Official Methods of Analysis (OMA) of the Association of Official Agricultural Chemists (AOAC) International. Such procedures, including the certification of sample collectors, and examinations shall be evaluated in accordance with the Evaluation of Milk Laboratories.

H. All violations of bacteria, coliform, somatic cell counts, and cooling temperature standards shall be followed by inspection, if needed, to determine and correct the cause.

SECTION VI. Labeling.

A. All bottles, containers, and packages enclosing raw milk or raw milk products for human consumption shall be labeled in accordance with the applicable requirements of the Federal Food, Drug and Cosmetic Act as amended, the Nutrition Labeling and Education Act (NLEA) of 1990 and regulations developed thereunder, and the Code of Federal Regulations, and shall comply with the applicable requirements of this section.

B. No person shall use any misleading marks, words, or endorsements upon the label. The Department may permit the use of registered trade designs or similar terms on the bottle cap or label when, in its opinion, they are not misleading and are not used to obscure the labeling required by the Regulation.

C. All bottles, containers, and packages enclosing raw milk or raw milk products for human consumption shall be conspicuously marked with:

1. The word “Raw” on the exterior surface. Acceptable locations shall include the principal display panel, the secondary or informational panel, or the cap/cover.

2. The identity of the farm where packaged. This identity shall include the name and the Department Permit Number.

3. The following consumer advisory, in print no smaller than six (6) point font, shall be included on the package: “This is a raw milk product that is not pasteurized. Consuming raw milk products may increase your risk of foodborne illness.”

4. The common name of the hooved mammal producing the milk shall precede the name of the milk or raw milk product when the product is made from other than cattle’s milk. As an example, “Goat,” “Sheep,” “Water Buffalo,” or “Other Hooved Mammal” milk, respectively.

D. Raw milk that has had cream separated from it must also be labeled as per Section VIII.B.3.

E. The term Grade “A” Raw may only be used with the designation of SC to read “SC Grade ‘A’ Raw”. Other grade designations may not be used.

F. Descriptive labeling terms such as “wholesome” or “healthy” must not be used. The label must not be false or misleading. The use of the term “cultured” is allowed and optional for buttermilk and kefir.

G. A permit holder’s label and Department permit number are not transferable and may only be used by that permit holder.

SECTION VII. Standards for Raw Milk and Raw Milk Products for Human Consumption.

A. General

1. All raw milk and raw milk products for human consumption shall be produced to conform with the following chemical, bacteriological, and temperature standards, and the sanitation requirements of this section.

2. No process or manipulation other than appropriate refrigeration shall be applied to raw milk or raw milk products for the purpose of removing or deactivating microorganisms.

Table 1. Chemical, Physical, Bacteriological, and Temperature Standards		
SC GRADE “A” RAW MILK AND RAW MILK PRODUCTS FOR HUMAN CONSUMPTION	Temperature	Raw milk: Cooled to 10°C (50°F) or less within four (4) hours or less, of the commencement of the first milking, and to 7°C (45°F) or less within two (2) hours after milking, provided, that the blend

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		temperature after the first and subsequent milkings does not exceed 10°C (50°F). Raw milk and raw milk products: All finished, processed, and packaged raw milk and raw milk products shall be maintained at 7°C (45° F) or less after processing, during storage, and during transportation. Production of buttermilk shall also meet the requirements of Section VIII.A.3.
	Bacterial Limits	Individual producer raw milk and raw milk products not to exceed 10,000 per mL
	Drugs	No positive results on drug residue detection methods
	Somatic Cell Count*	Individual producer raw milk not to exceed 500,000 per mL.
	Coliform	Not to exceed 10 per gram.
	Pathogenic Organisms: **Escherichia Coli	Individual producer: raw milk and raw milk products not to exceed zero (0) organisms
	**0157:H7	Individual producer: raw milk and raw milk products not to exceed zero (0) organisms
	**Salmonella	Individual producer: raw milk and raw milk products not to exceed zero (0) organisms
	**Listeria Monocytogenes	Individual producer: raw milk and raw milk products not to exceed zero (0) organisms
	**Campylobacter	Individual producer: raw milk and raw milk products not to exceed zero (0) organisms

*Goat Milk 1,000,000 per mL: when greater than 1,000,000, additional confirmatory or screening tests will be used.

**Pathogenic testing required before permitting and in association with a foodborne disease outbreak. See Section V.C.1, V.C.2, and V.F.

B. Sanitation Requirements for SC Grade “A” Raw Milk and Raw Milk Products for Human Consumption.

1. Milk with Abnormalities

a. Lactating animals which show evidence of the secretion of milk with abnormalities in one (1) or more quarters, based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment and the milk shall be discarded as the Department may direct.

b. Lactating animals that have been treated with, or have consumed, chemical, medicinal, or radioactive agents, which are capable of being secreted in the milk and which, in the judgment of the Department, may be deleterious to human health, shall be milked last or with separate equipment and the milk disposed of as the Department may direct.

c. Raw milk or raw milk products from lactating animals being treated with medicinal agents, which are capable of being secreted in the milk, shall not be offered for sale for such period as is recommended by the attending veterinarian or as indicated on the package label of the medicinal agent.

d. Raw milk or raw milk products from lactating animals treated with or exposed to insecticides not approved for use on dairy animals by the United States Environmental Protection Agency shall not be offered for sale.

e. The Department may require additional tests for the detection of milk with abnormalities as it deems necessary.

f. Bloody, stringy, off-colored milk, or milk that is abnormal to sight or odor, shall be handled and disposed of as to preclude the infection of other lactating animals and the contamination of milk utensils.

g. Lactating animals secreting milk with abnormalities shall be milked last or in separate equipment which effectively prevents the contamination of the wholesome supply. Milking equipment used on animals with abnormalities in their milk shall be maintained clean to reduce the possibility of re-infecting or cross infection of the dairy animals.

h. Equipment, utensils, and containers used for the handling of milk with abnormalities shall not be used for the handling of raw milk or raw milk products to be offered for sale, unless they are first cleaned and effectively sanitized.

i. Processed animal waste derivatives used as a feed ingredient for any portion of the total ration of the lactating dairy animal shall:

(1) Be properly processed in accordance with at least those requirements contained in the Model Regulations for Processed Animal Wastes developed by the Association of American Feed Control Officials; and

(2) Not contain levels of deleterious substances, harmful pathogenic organisms, or other toxic substances which are secreted in the milk at any level that may be harmful to human health.

j. Unprocessed poultry litter and unprocessed recycled animal body discharges shall not be fed to lactating dairy animals.

2. Milking Barn, or Parlor Construction

A milking barn or parlor shall be provided on all dairy farms in which the milking herd shall be housed during milking time operations.

a. All floors must be constructed of concrete or equally impervious material. Floors shall be easily cleaned and shall be graded to drain and maintained in good repair and free of excessive breaks or worn areas that may create pools.

b. Walls and ceilings shall be smooth, painted, or finished in an approved manner, and be in good repair. Ceilings shall be dust-tight; approved materials include wood, tile, smooth-surfaced concrete, cement plaster, brick, or other equivalent materials with light colored surfaces. Walls, partitions, doors, shelves, windows, and ceilings shall be kept in good repair; and surfaces shall be refinished whenever wear or discoloration is evident. Whenever feed is stored overhead, ceilings shall be constructed to prevent the sifting of chaff and dust into the milking barn, stable, or parlor. If a hay opening is provided from the loft into the milking portion of the barn, such opening shall be provided with a dust-tight door which shall be kept closed during milking operations.

c. Separate stalls or pens for horses, calves, and bulls shall be provided. Such portions of the barn that are not separated by tight partitions shall comply with all requirements of this item.

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d. Natural and/or artificial light well distributed for day and/or night milking must be provided to ensure that all surfaces and particularly the working areas will be plainly visible. The equivalent of at least ten (10) foot-candles (110 lux) of light in all working areas shall be provided.

e. Sufficient air space and air circulation to prevent condensation and excessive odors must be provided.

f. There must be no overcrowding by the presence of calves, cows, or other barnyard animals in walk or feed alleys. Inadequate ventilation and excessive odors may also be evidence of an overcrowded barn.

g. There must be dust-tight covered boxes or bins, or separate storage facilities for ground, chopped, or concentrated feed. A dust-tight partition, provided with doors that are kept closed except when in actual use, shall separate the milking portion of the barn from any feed room or silo in which feed is ground or mixed, or in which sweet feed is stored. When conditions warrant, the Department may approve a barn without four (4) walls extending from floor to roof, or a shed-type barn provided the requirement of Section VII.B.3, which prohibits animals and fowl from entering the barn, is satisfied. Lactating animal-housing areas (stables without stanchions, such as loose housing stables, pen stables, resting barns, free stall barns, holding barns, loafing sheds, and wandering sheds) may be of shed-type construction, provided no milking is conducted therein. (These structures are classified as part of the cowyard under Section VII.B.4.)

h. The Department may grant a variance or waiver from one or more of the requirements of paragraphs VII.B.2.a through VII.B.2.g when, in the opinion of the Department, a health hazard or nuisance will not result from the variance or waiver.

3. Milking Barn, Stable, or Parlor Cleanliness

a. The interior of the milking barn, stable, or parlor shall be kept clean. Floors, walls, ceilings, windows, pipelines, and equipment shall be free of filth and/or litter and shall be clean. Outside surfaces of pipeline systems located in the milking barn, stable, or parlor must be kept reasonably clean.

b. Gutter cleaners must be kept reasonably clean.

c. Swine and fowl shall be kept out of the milking barn.

d. Feed shall be stored in a manner that will not increase the dust content of the air or interfere with the cleaning of the floor (as in covered, dust-tight boxes or bins). Open feed dollies or carts may be used for distributing the feed, but not storing food, in the milking area.

e. Food mangers shall be kept clean so as not to attract flies; leftover feed in feed mangers must appear fresh and not be wet or soggy.

4. Cowyard

a. The cowyard, which is interpreted to be the enclosed or unenclosed area approximately adjacent to the milking barn in which the lactating animals may congregate, including animal-housing areas and feed lots, shall be graded and drained and shall have no standing pools of water or accumulations of organic wastes.

b. Wastes from the barn, milkroom, or processing room shall not be allowed to pool in the cowyard. Depressions and soggy areas shall be filled, and lactating animal lanes kept reasonably dry. Cowyards which are muddy due to recent rains should not be considered as violating this item.

c. Manure, soiled bedding, and waste feed shall not be stored or permitted to accumulate in such a manner as to permit the soiling of lactating animals' udders and flanks. Animal-housing areas (stables without stanchions, such as loose-housing stables, pen stables, resting barns, holding barns, loafing sheds, wandering

sheds, free-stall housing) shall be considered part of the cowyard. Manure packs shall be solid to the footing of the animal.

d. In loafing or lactating animal housing areas, lactating animal droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the lactating animal's udder and flanks.

e. Waste feed shall not be allowed to accumulate.

f. Swine shall be kept out of the cowyard.

g. Cowyards shall be kept reasonably free of animal droppings. Animal droppings shall not be allowed to accumulate in piles that are accessible to the animals.

5. Milkroom or Processing Room—Construction and Facilities

a. A separate milkroom and/or processing room of sufficient size shall be provided, in which the cooling, handling, further processing, and storing of milk and the washing, sanitizing, and storing of milk containers and utensils shall be conducted, except as provided for in Section VII.B.12 of this Regulation.

b. Every milkroom and processing room shall be provided with a smooth floor constructed of concrete or equally impervious material graded to drain and maintained in good repair. Floors shall be sloped to drains so that there are no pools of standing water. Liquid waste shall be disposed of in a sanitary manner; all floor drains shall be accessible and shall be trapped if connected to a sanitary sewer system.

c. The joints between floors and walls shall be watertight.

d. The walls and ceilings shall be constructed of smooth material, in good repair, well painted, or finished in an equally suitable manner. Surfaces and joints shall be tight and smooth. Acceptable materials include sheet metal, tile, cement block, brick, concrete, cement plaster, or similar materials of light color. Surfaces up to splash height shall be non-absorbent and easily cleanable.

e. Every milkroom and processing room shall have adequate natural and/or artificial light and be well ventilated. A minimum of twenty (20) foot-candles (220 lux) of light shall be provided at all working areas from natural and/or artificial light for milkroom and processing room operations.

f. The milkroom and processing room shall be used for no other purpose than milkroom and processing room operations; there shall be no direct opening into any barn, stable, parlor or into a room used for domestic purposes. A direct opening between the milkroom or processing room and milking barn, stable or parlor is permitted when a tight-fitting self-closing solid door(s) hinged to be single or double acting is provided and opens outward from the milk room. A vestibule, if used, must comply with the applicable milkroom and processing room construction requirements. Screened vents in the wall between the milkroom or processing room and a breezeway, which separates the milkroom or processing room from the milking parlor, are permitted, provided animals are not housed within the milking facility.

g. Water under pressure shall be piped into the milkroom and/or processing room.

h. Every milkroom and processing room shall be adequately ventilated to minimize odors and condensation on floors, walls, ceilings, and clean utensils.

i. Vents, if installed, and lighting fixtures shall be located to preclude the contamination of bulk milk tanks or clean utensil storage area.

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j. The milkroom and/or processing room shall be equipped with a wash-and-rinse vat having at least two (2) compartments. Each compartment must be of sufficient size to accommodate the largest utensil or container used. The cleaning-in-place vat for milk pipelines and milk machines may be accepted as one (1) part of the two (2)-compartment vat; provided that the cleaning-in-place station rack in or on the vat and milking machine inflations and appurtenances are completely removed from the vat during the washing, rinsing, and/or sanitizing of other utensils and equipment. Where mechanical cleaning/recirculated systems eliminate the need for handwashing of equipment, the presence of the second wash vat compartment may be optional if so determined by the Department on an individual farm basis.

k. Each milkroom and/or processing room shall be provided with facilities for heating water in sufficient quantity and to such temperatures for the effective cleaning of all equipment and utensils.

6. Milkroom and Processing Room – Cleanliness

a. The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils, and equipment, and other milkroom or processing room equipment shall be kept clean. Vestibules, if provided, shall be kept clean.

b. Only articles directly related to milkroom or processing room activities shall be permitted in the milkroom or processing room.

c. The milkroom and processing room shall be kept free of trash, animals, and fowl.

d. Incidental articles such as desks, refrigerators, and storage cabinets may be in the milkroom or processing room provided they are kept clean, ample space is available to conduct the normal operations in the milkroom or processing room, and they will not cause contamination of the milk.

7. Toilet

a. Every dairy farm shall be provided with one (1) or more toilets, conveniently located and properly constructed, operated, maintained and utilized in a sanitary manner. There shall be at least one (1) flush toilet connected to a public sewer system or to an individual sewage-disposal system, or if occupied for less than two (2) hours per day, a portable chemical toilet may be used. Such sewage systems shall be constructed and operated in accordance with applicable Department regulations and statutes.

b. The waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate any water supply.

c. The toilet room, including all fixtures and facilities, shall be kept clean and free of insects and odors.

d. Where flush toilets are used, doors to toilet rooms shall be tight and self-closing. All outer openings in toilet rooms shall be screened or otherwise protected against the entrance of insects.

8. Water Supply

a. Water for milkroom or processing room and milking operations shall be from an approved supply properly located, protected, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

b. No cross-connection shall exist between a safe water supply and any unsafe or questionable water supply, or any other source of pollution.

c. There shall be no submerged inlets through which a safe water supply may be contaminated.

d. The well or other source of water shall be located and constructed in such a manner that neither underground nor surface contamination from any sewerage systems, privy, or other source of pollution can reach such water supply.

e. New individual water supplies and water supply systems that have been repaired or otherwise become contaminated shall be thoroughly disinfected before being placed in use. The supply shall be made free of the disinfectant by pumping to waste before any sample for bacteriological testing shall be collected.

f. All containers and tanks used in the transportation of water shall be sealed and protected from possible contamination. These containers and tanks shall be subjected to a thorough cleaning and a bacteriological treatment prior to filling with potable water to be used at the dairy farm. To minimize the possibility of contamination of the water during its transfer from the potable tanks to the elevated or groundwater storage at the dairy farm, a suitable pump, hose, and fittings shall be provided. When the pump, hose, and fittings are not being used, the outlets shall be capped and stored in a suitable dust-proof enclosure to prevent their contamination. The storage tank at the dairy farm shall be constructed of impervious material provided with a dust and rainproof cover, as well as with an approved-type vent and roof hatch. All new reservoirs, or reservoirs which have been cleaned, shall be disinfected prior to placing them into service.

g. Samples for bacteriological examination shall be taken upon the initial approval of the physical structure based upon the requirements of this Regulation, when any repair or alteration of the water supply system has been made, and at least every year.

h. Bacteriological examinations shall be conducted in a laboratory acceptable to the Department.

i. Current records of water test results shall be retained on file with the Department or as the Department directs.

9. Utensils and Equipment – Construction

a. All multiuse containers, equipment, and utensils that are exposed to raw milk or raw milk products, or from which liquids may drip, drain or be drawn into raw milk or raw milk products, and used in the handling, storage, or transportation of milk shall be made of smooth, non-absorbent, corrosion-resistant, nontoxic materials, and shall be constructed to be easily cleaned. Acceptable materials include:

(1) Stainless steel of the AISI (American Iron and Steel Institute) 300 series, or equally corrosion-resistant, nontoxic metal;

(2) Heat-resistant glass; or

(3) Plastic or rubber and rubber-like materials which are relatively inert, resistant to scratching, scoring, decomposition, crazing, chipping, and distortion under normal use conditions; are nontoxic, fat resistant, relatively nonabsorbent, and relatively insoluble; do not release component chemicals or impart flavor or odor to the product; and which maintain their original properties under repeated use conditions.

b. All containers, utensils, and equipment shall be in good repair and shall be free of breaks, corrosion, pits, cracks, or inclusions.

c. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Seamless hooded pails having an opening not exceeding one-third the area of that of an open pail of the same size shall be used for hand milking and hand stripping.

d. Strainers, if used, shall be constructed of perforated metal design, or single-service strainer media should be utilized. Multiple-use woven material shall not be used for straining milk.

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e. All single-service articles shall be manufactured, packaged, transported, stored, and handled in a sanitary manner and shall comply with the applicable requirements of Section IX. Articles intended for single-service use shall not be reused.

f. Farm holding/cooling tanks, welded sanitary piping, and transportation tanks shall comply with the applicable requirements of Section VII.B.9.a, g, and h.

g. Mechanically cleaned milk pipelines and return-solution lines shall be self-draining. If gaskets are used, they shall be self-positioning and of material meeting specifications described in Section VII.B.9.a.(3), and shall be of such design, finish, and application as to form a smooth, flush interior surface. If gaskets are not used, all fittings shall have self-positioning faces designed to form a smooth, flush interior surface. All interior surfaces of welded joints in pipelines shall be smooth and free of pits, cracks, and inclusions.

h. Mechanically cleaned milk pipelines and return solution lines installed after the effective date of this Regulation shall have welded ferrule/flange fittings; rolled fittings shall not be used.

i. Detailed plans for cleaned-in-place pipeline systems shall be submitted to the Department for written approval prior to installation. No alteration or addition shall be made to any milk pipeline system without prior written approval of the Department.

j. All milking machines, including heads, milk claws, milk tubing, and other milk-contact surfaces shall be constructed to be easily cleaned and inspected. Pipelines, milking equipment, and appurtenances that require a screwdriver or special tool shall be considered easily accessible for inspection, provided the necessary tools are available at the milkroom or processing room. Milking systems shall not have components incorporated in the return solution lines that by design do not comply with the criteria for product-contact surfaces, such as:

(1) Ball type plastic valves;

(2) Plastic tees with barbed ridges to better grip the plastic or rubber hoses; and

(3) PVC water type piping.

k. Milk cans shall have umbrella-type lids.

l. Farm holding/cooling tanks, welded sanitary piping, and transportation tanks shall comply with the applicable requirements of this Regulation.

m. During filling, flexible plastic/rubber hoses may be used between the fill valves of bottom fill and top fill bulk milk storage tanks, when needed for functional purposes. Such hoses shall be drainable, be as short as practical, have sanitary fittings, and be supported to maintain uniform slope and alignment. The end fittings of such hoses shall be permanently attached in such a manner that will assure a crevice-free joint between the hose and the fitting and can be cleaned by mechanical means. The hoses shall be included as part of a mechanical cleaning system.

n. Transparent flexible plastic tubing (up to 150 feet in length) used in connection with milk transfer stations shall be considered acceptable if it meets the “3-A Sanitary Standards for Multiple-Use Plastic Materials Used as Product Contact Surfaces for Dairy Equipment, Number 20” and if it remains sufficiently clear that the interior surfaces can be properly inspected. Short lengths of flexible plastic tubing (eight [8] feet or less) may be inspected for cleanliness by sight or by use of a “rod.” The transparency or opacity of such tubing under this condition is not a factor in determining cleanliness.

o. Whenever air under pressure is used for the agitation or movement of milk, or is directed at a milk-contact surface, it shall be free of oil, dust, rust, excessive moisture, extraneous materials, and odor.

10. Utensils and Equipment—Cleaning

a. The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of raw milk and raw milk products shall be cleaned after each milking or once every twenty-four (24) hours for continuous operations.

b. There shall be a separate wash manifold for all mechanically cleaned milk pipelines in all new or extensively remodeled facilities.

11. Utensils and Equipment – Sanitization

a. The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of raw milk and raw milk products shall be sanitized before each usage.

b. Sanitization shall be achieved by use of the following methods:

(1) Complete immersion in hot water at a temperature of at least 77°C (170°F), for at least five (5) minutes, or exposure to a flow of hot water at a temperature of at least 77°C (170°F), as determined by the use of a suitable accurate thermometer (at the outlet) for at least five (5) minutes;

(2) Complete immersion for at least one (1) minute in or exposure for at least one (1) minute to a flow of a chemical sanitizer of acceptable strength. All product-contact surfaces must be wetted by the sanitizing solution, and piping so treated must be filled. Sanitizing sprays may be used. Chemical solutions, once used, shall not be reused for sanitizing but may be reused for other purposes; or

(3) By any method which has been demonstrated to be equally effective and approved by the FDA, EPA, or the Department.

12. Utensils and Equipment – Storage

a. All containers, utensils, and equipment used in the handling, storage, or transportation of raw milk and raw milk products, unless stored in sanitizing solutions, shall be stored to assure complete drainage and shall be protected from contamination prior to use, except that pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers, tubular coolers, plate coolers, milk pumps, and AMI milking equipment which are designed for mechanical cleaning and other equipment, as accepted by FDA, which meets these criteria, may be stored in the milking barn or parlor, provided this equipment is designed, installed, and operated to protect the product and solution-contact surfaces from contamination at all times.

b. Strainer pads, parchment papers, gaskets, and similar single-service articles shall be stored in a suitable container or cabinet and protected against contamination.

13. Utensils and Equipment—Handling

After sanitization, all containers, utensils, and equipment shall be handled in a manner that prevents contamination of any product-contact surface.

a. Sanitized product-contact surfaces, including farm cooling holding tank openings and outlets, shall be protected against contact with unsanitized equipment and utensils, hands, clothing, splash, condensation, and other sources of contamination.

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b. Any sanitized product-contact surface which has been otherwise exposed to contamination shall be cleaned and sanitized before being used.

14. Milking—Flanks, Udders, and Teats

a. Milking shall be done in the milking barn or parlor.

b. The flanks, udders, bellies, and tails of all milking cows shall be free from visible dirt. All brushing shall be completed prior to milking.

c. The udders and teats shall be cleaned and treated with a sanitizing solution just prior to the time of milking, and shall be relatively dry before milking. Sanitizing solutions shall be used in accordance with manufacturer specifications and recommendations.

d. Wet hand milking is prohibited.

e. Flanks, bellies, tails, and udders shall be clipped as often as necessary to facilitate cleaning of these areas.

15. Drug and Chemical Control

a. Cleaners and Sanitizers

(1) Cleaners and sanitizers shall be stored in dedicated end-use containers which properly identify the contents.

(2) Bulk cleaners and sanitizers that are transferred from the manufacturer's or distributor's container shall be stored only in an end-use container that is properly labeled with the container's contents.

(3) The manufacturer's or distributor's label for each cleaner and sanitizer, including the product name, chemical description, use directions, precautionary and warning statement, first aid instructions, container storage and maintenance instructions and the name and address of the manufacturer or distributor, shall be maintained on the premises and be readily accessible for reference or inspection.

b. Drugs

(1) Drugs shall be properly labeled to include the name and address of the manufacturer or distributor for over-the-counter (OTC) drugs or veterinary practitioner dispensing the product for prescription and extra label use drugs. Drug labels shall also include:

(a) Directions for use and prescribed withholding times;

(b) Cautionary statements, if needed; and

(c) Active ingredient(s) in the drug product.

(2) Drugs dispensed by a pharmacy on the order of a veterinarian shall have labeling that includes the name of the prescribing veterinarian and the name and address of the dispensing pharmacy; the address of the prescribing veterinarian may be included on the labeling.

(3) Drugs intended for treatment of non-lactating dairy animals shall be segregated from those drugs used for lactating animals in separate shelves in cabinets, refrigerators, or other storage facilities.

(4) Unapproved drugs shall not be used and shall not be stored in the milkroom, processing room, milking barn, stable, or parlor.

(5) Animal drugs and drug administration equipment shall be stored in such a way that milk, milking equipment, wash vats, and hand sinks are not subject to contamination by the drugs.

(6) Equipment used to administer drugs shall not be cleaned in the wash vats.

(7) Topical antiseptics and wound dressings, unless intended for direct injection into the teat, vaccines and other biologics, and dosage form vitamins and/or mineral products are exempt from labeling and storage requirements, except when it is determined that they are stored in such a manner that they may contaminate the raw milk or raw milk product-contact surfaces of containers, utensils, or equipment.

16. Milking—Transfer and Protection of Milk

a. Each pail or container of milk shall be taken immediately from the milking barn or parlor to the milkroom or processing room. No milk shall be strained, poured, transferred, or stored outside the milkroom or processing room.

b. The milk receiving receptacle shall be raised above the floor.

17. Personnel

a. Adequate handwashing facilities shall be provided, including a lavatory fixture with hot and cold, or warm running water, soap or detergent, and individual sanitary towels, or other approved hand drying devices, convenient to the milkroom, processing room, milking barn, stable, parlor and flush toilet, and shall be used for no other purpose. Utensil wash and rinse vats shall not be considered as handwashing facilities.

b. Hands shall be washed clean and dried with an individual sanitary towel or other approved hand drying device immediately before milking, before performing any milkroom or processing room function, and immediately after the interruption of any of these activities. Milkers shall wear clean outer garments while milking or handling raw milk, raw milk products, milk containers, utensils, or equipment.

c. No person who by medical examination or supervisory observation is shown to have or appears to have an illness, open lesion (including boils, sores, or infected wounds) or any other abnormal source of microbial contamination shall work at any dairy farm in any capacity that brings them into contact with the production, handling, storage, or transportation of raw milk, raw milk products, containers, equipment, and/or utensils.

d. When reasonable cause exists to suspect the possibility of transmission of infection or disease from any person associated with the handling of raw milk or raw milk products, the Department may:

(1) Order the immediate exclusion of that person from raw milk handling or handling of raw milk products;

(2) Order the immediate exclusion of the raw milk or raw milk products concerned from distribution and consumption;

(3) Order adequate medical and bacteriological examination of the person to determine if an infection or disease is present; or

(4) Order any combination of the previous measures.

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18. Cooling

a. Raw milk shall be cooled to 10°C (50°F) or less within four (4) hours or less of the commencement of the first milking, and to 7°C (45° F) or less within two (2) hours after the completion of milking, and shall be maintained at that temperature, including during packaging and transportation; except that, the blend temperature after the first milking and subsequent milking shall not exceed 10°C (50°F).

b. All finished, processed, and packaged raw milk and raw milk products shall be maintained at 7°C (45° F) or less after processing, during storage, and during transportation.

c. Recirculated cold water that is used in plate or tubular coolers or heat exchangers shall be from a safe source and protected from contamination. Such water shall be tested semiannually and shall comply with the bacteriological standards set by the Department.

19. Vehicles.

Vehicles used to transport raw milk and raw milk products shall be constructed and operated to protect their contents from sun, freezing, and contamination. Such vehicles shall be kept clean, inside and out; no substance capable of contaminating raw milk or raw milk products shall be transported with raw milk or raw milk products.

20. Insect and Rodent Control.

a. Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects and rodents, and by chemicals used to control such vermin.

b. Milkrooms and processing rooms shall be free of insects and rodents.

c. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

d. Feed shall be stored in such a manner that it will not attract birds, rodents, or insects.

e. Manure packs in loafing areas, stables without stanchions, pen stables, resting barns, wandering sheds, and free-stall housing shall be properly bedded and managed to prevent fly breeding.

f. Milkrooms and processing rooms shall be effectively screened or otherwise protected against the entrance of vermin, including hose ports and floor drains through walls.

g. Outer milkroom and processing rooms doors shall be tight and self-closing. Screen doors shall open outward.

h. Only pesticides approved for use by the Department and/or registered with the U.S. Environmental Protection Agency shall be used for insect and rodent control.

i. Pesticides shall be used only in accordance with manufacturer's directions.

SECTION VIII. Standards for Further Processing of Raw Milk Products.

A. Buttermilk

1. All equipment used for the production and processing of buttermilk must be smooth, non-absorbent, and easily cleanable.

2. All ingredients must come from an approved source.

3. The pH of the buttermilk must be maintained at 4.6 or below following production and at the time of packaging, or the product must be maintained at 7°C (45° F) or below. All finished, processed, and packaged buttermilk must meet the requirements of VII.B.18.b.

B. Cream

1. All equipment used for the production and processing of cream must be smooth, non-absorbent, and easily cleanable.

2. Cream must be removed from the raw milk vat by the use of a separator or other method approved by the Department. The hand skimming of cream is prohibited.

3. Raw milk that has had the cream removed shall be labeled as “Raw Milk with Cream Removed.”

4. All finished, processed, and packaged cream must meet the requirements of VII.B.18.b.

C. Kefir

1. All equipment used for the production and processing of kefir must be smooth, non-absorbent, and easily cleanable.

2. All ingredients must come from an approved source.

3. The product may contain harmless edible stabilizers not to exceed six-tenths of 1 percent (0.6%). Kefir shall contain no more than 10 coliform bacteria per gram and shall be free of molds, yeasts, and other fungi, and other objectionable bacteria that may impair the quality of the product.

4. Conformance with the requirements of I.A.14 and VIII.C.3 shall be demonstrated by a product assessment conducted by a third-party process authority and provided to the Department by the raw milk processor if requested by the Department.

5. All finished, processed, and packaged kefir must meet the requirements of VII.B.18.b.

SECTION IX. Bottling, Packaging, Container Filling, and Container Closure/Sealing.

A. Bottling, Packaging, and Container Filling.

1. Bottling, packaging, and container filling of raw milk and raw milk products shall be done at the place of production in a sanitary manner by approved mechanical equipment. Bottling, packaging, and container filling of raw milk or raw milk products may be conducted in the milkroom and processing rooms or room.

2. Bottling or packaging machine supply tanks and bowls shall have covers which are smooth and easily cleanable and shall be constructed to prevent any contamination from reaching the inside of the filler tank or bowl. All covers shall be in place during operation.

3. A drip deflector shall be installed on each filler valve. The drip deflector shall be designed and adjusted to divert condensation away from the open container.

4. All containers, seals, and caps shall be from an approved Interstate Milk Shippers listed facility.

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5. All containers, seals, and caps shall be handled in a sanitary manner and protected against undue exposure during the operation.

6. When any lubricant is applied to the filler equipment or other milk contact surfaces, the lubricant shall be food grade and applied in a sanitary manner.

7. Containers shall be closed immediately after being filled.

B. Container Closure/Sealing.

1. All container caps, sealers, and closures shall be stored in a clean, dry place protected from insects, rodents, dust, splash, or other contamination.

2. Only new containers, container caps, sealers, and closures shall be used. Reusable glass containers must be approved by the Department prior to use.

3. All container closure/sealing shall be done at the place of production in a sanitary manner by approved mechanical equipment.

4. Hand capping or sealing of containers is prohibited.

5. If suitable mechanical equipment for the capping or closing of specific container(s) of 12.8 liters (three [3] gallons) or more is not available, other methods which eliminate all possibility of contamination may be approved by the Department. Approval of such methods shall be obtained prior to beginning operation.

6. Bottles and packages which have been imperfectly capped, sealed, or closed shall have the contents emptied immediately into approved sanitary containers that are protected from contamination and maintained at 7°C (45°F) or less; when handled and stored properly, the contents may be repackaged in new containers at a later time.

7. All caps, seals, and closures shall be designed and applied so that the sealed container is tamper-evident (removal cannot be made without detection), and the pouring lip shall be protected to at least its largest diameter.

8. Caps, sealers, and closures shall not be left in the equipment at the end of an operating period. Caps, sealers, and closures remaining in the chute between the hopper and the capping device shall be discarded.

9. Loose caps, sealers, and closures may be returned to storage by enclosing them in a clean, protective wrap, plastic bag, or container approved by the Department.

SECTION X. Animal Health.

A. All raw milk and raw milk products for human consumption within South Carolina shall be from healthy animals. Raw milk and raw milk products from unhealthy animals shall not be offered for sale, barter, or be given away, or combined with other raw milk or raw milk products for human consumption.

B. All animals producing raw milk or raw milk products for human consumption shall be free of brucellosis and tuberculosis. Animals showing positive by lesions or a positive test shall be reported to the Department and shall also be reported to the State Veterinarian office in accordance with applicable law.

C. For diseases other than brucellosis and tuberculosis, the Department shall require such physical, chemical, or bacteriological tests as it deems necessary. The diagnosis of other diseases in dairy animals shall be based upon the findings of a licensed veterinarian. Any diseased animal disclosed by such test(s) shall be disposed of as the Department directs.

D. Animals shipped into South Carolina for additions to herds shall have been tested for tuberculosis and brucellosis within thirty (30) calendar days prior to being brought into the state, except that this shall not apply, with regard to brucellosis, to those cattle that have been vaccinated for brucellosis and are under thirty (30) months of age.

E. Records supporting the tests required in this section shall be made available to the Department and be validated with the signature of a licensed veterinarian.

SECTION XI. Recall.

Each producer and distributor of raw milk and raw milk products for human consumption shall develop and maintain procedures for the notification of regulatory officials, consumer notification, and product recall, and shall implement any of these procedures as necessary with respect to any product for which the producer, distributor, or the Department knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer. If the Department determines, based upon representative samples, risk analysis, information provided by the producer or distributor, and other information available to the Department, that the circumstances present an imminent hazard to the public health and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the Department may order the producer or distributor to initiate a level of product recall or, if appropriate, issue a form of notification to customers. The producer or distributor shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.

SECTION XII. Enforcement.

A. General.

This Regulation is issued under the authority of Sections 44-1-140(3) and 44-1-150, S.C. Code of Laws, 1976, as amended. It shall be enforced in accordance with interpretations and public health reasons approved by the Department.

B. Penalties.

Any person found to be in violation of this Regulation, in noncompliance with the issued permit, or in violation of an order issued by the Department shall be subject to civil monetary penalties, permit suspension, and/or permit revocation. Each day of continued violation shall be a separate offense.

C. Suspension of Permit.

1. The Department may temporarily suspend a permit whenever:
 - a. It has reason to believe that a public health hazard exists;
 - b. The permit holder has violated any of the requirements of this Regulation;
 - c. The permit holder has violated its permit or an order of the Department, including but not limited to, a hold order;
 - d. The permit holder has interfered with the Department in the performance of its duties, including willful refusal to allow an authorized inspection/audit; or
 - e. The permit holder exhibits hostile behavior toward a representative of the Department during the performance of duty.

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2. The Department may, without warning, notice, or hearing, immediately suspend the permit of any producer of raw milk or raw milk products whenever, in the opinion of the Department, an imminent health hazard exists. An imminent health hazard may include, but is not limited to, a willful refusal to permit authorized inspection, serious or repeated violations of bacterial, coliform, somatic cell, or cooling temperature standards, violation of drug residue test standards, or the presence of pathogenic organisms. Upon such suspension of the permit, all processing, bottling, and/or distribution activities shall immediately cease and remain ceased while the permit is suspended. The suspension of permit shall remain in effect until the imminent health hazard has been corrected to the satisfaction of the Department.

3. A suspension of permit shall remain in effect until any violation has been corrected to the satisfaction of the Department.

D. Revocation of Permit.

The Department may revoke a permit for serious or repeated violations of any of the requirements of this Regulation, the permit, or an order of the Department, or for interference with the Department or its representatives in the performance of its duties, including willful refusal to allow an authorized inspection/audit. Notwithstanding any other provisions of this Regulation, the permit may be revoked if any Department representative is threatened with bodily harm or physical interference in the performance of inspectional duties.

E. Reinstatement of Permit.

1. Any producer whose permit has been suspended may submit a written application for the reinstatement of the permit. Any application for the reinstatement of a suspended permit must be in writing and must address all violations underlying the suspension and explain the steps taken to correct those violations.

2. Within seven (7) business days of the receipt of such an application, the Department shall make an inspection of the applicant's establishment, and as many additional inspections thereafter as are deemed necessary, to determine whether the conditions cited in the notice of suspension no longer exist. When the findings justify, the permit shall be reinstated.

3. When the permit suspension has been due to a violation of any of the bacteriological, coliform, somatic cell, cooling temperature, or drug residue test standards, the Department may issue a temporary permit whenever resampling of the herd's milk supply indicates the milk supply to be within acceptable limits as prescribed in Section VII. Samples shall then be taken at the rate of not more than two (2) per week on separate days within a three (3)-week period, and the Department shall reinstate the permit upon compliance with the appropriate standards as determined in accordance with Section V of this Regulation.

4. When a permit has been revoked, the holder of the revoked permit may submit a written application for a new permit; however, the Department may deny a new permit based upon past history, including previous enforcement, suspension, or revocation history.

5. Any person whose permit is revoked shall not be eligible to apply for re-permitting within one (1) year from the date of revocation. Any person whose permit has previously been revoked and who obtains a subsequent permit and violates the provisions of this Regulation, resulting in revocation of the permit for a second time, shall not be granted another permit for a period of five (5) years.

SECTION XIII. Delayed Implementation.

Existing raw milk or raw milk products permit holders in operation prior to the effective date of the below listed requirements of this Regulation may use labels that do not comply with those requirements (but which meet all labeling requirements previously in effect) until their existing supply of labels as of the effective date of the

below requirements is exhausted or for no more than one (1) year from the effective date of these requirements, whichever is sooner:

1. As provided in Section VI.C.3, all labels shall include the following consumer advisory, in no smaller than six (6) point font: “Consuming raw milk products may increase your risk of foodborne illness.”

2. As provided in Section VI.E, labels may only use the term Grade “A” Raw in conjunction with the designation of “SC,” to read “SC Grade ‘A’ Raw”. Other grade designations may not be used.

Raw milk or raw milk products permit holders permitted after the effective date of the requirements referenced in Section XIII.1 and XIII.2 above must comply with all of the labeling requirements of Section VI without any delayed implementation.

SECTION XIV. Severability Clause.

Should any section, paragraph, sentence, clause, or phrase of this Regulation be declared unconstitutional or invalid for any reason, the remainder of this Regulation shall not be affected thereby.

61-34.1. Pasteurized Milk and Milk Products.

(Statutory Authority: S.C. Code Sections 44-1-140 and 44-1-150)

SECTION I. Applicability of the Grade “A” Pasteurized Milk Ordinance, 2019 Revision

A. The following sections, appendices, and footnotes of the Grade “A” Pasteurized Milk Ordinance (PMO or Ordinance), 2019 Revision, apply in their entirety:

1. Section 4, Labeling;
2. Section 6, The Examination of Milk and/or Milk Products;
3. Section 7, Standards for Grade “A” Milk and/or Milk Products (including Items 1r through 19r, and 1p through 22p);
4. Section 8, Animal Health;
5. Section 9, Milk and/or Milk Products Which May Be Sold;
6. Section 10, Transferring; Delivery Containers; Cooling;
7. Section 11, Milk and/or Milk Products from Points Beyond the Limits of Routine Inspection;
8. Section 12, Plans for Construction and Reconstruction;
9. Section 13, Personnel Health;
10. Section 14, Procedures When Infection or High Risk of Infection Is Discovered;
11. Section 18, Separability Clause;
12. Footnotes; and
13. Appendices A through S.

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B. The following associated documents of the Grade “A” Pasteurized Milk Ordinance, 2019 Revision, apply in their entirety:

1. Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2019 Revision (Procedures);
2. Methods of Making Sanitation Ratings of Milk Shippers, 2019 Revision (Methods); and
3. Evaluation of Milk Laboratories, 2019 Revision.

C. The following provisions of the Grade “A” Pasteurized Milk Ordinance, 2019 Revision, apply with the additions, exceptions, and superseding amendments specified below:

1. Section 1, Definitions applies with the following exceptions:

- a. Definition YY, Regulatory Agency, shall be stricken, and the term “Regulatory Agency,” where used in the Pasteurized Milk Ordinance, 2019 Revision, shall be replaced with the term “Department.” The Department shall mean the South Carolina Department of Health and Environmental Control or its authorized representative.

- b. Ordinance, as used in the Pasteurized Milk Ordinance, 2019 Revision, shall mean the provisions and appendices of the Pasteurized Milk Ordinance, 2019 Revision, as adopted by the South Carolina Department of Health and Environmental Control (“the Department”).

- c. “... of ...”, as used in the Pasteurized Milk Ordinance, 2019 Revision, shall mean the state of South Carolina.

- d. Cross-references to “Section 3. of this *Ordinance*” appearing in Section 5, Section 6, and Appendix N shall mean Section C.3 of this Regulation together with applicable portions of Section 3 of the Ordinance.

2. Section 2, Adulterated or Misbranded Milk and/or Milk Products, applies in its entirety with the following additions:

- a. The following applies in addition to Section 2:

Milk and milk products shall be examined by the Department as often as may be necessary to determine freedom from adulteration or misbranding. The Department may, upon written notice to the owner or person in charge, place a hold order on any milk or milk product which it determines, or has probable cause to believe, to be unwholesome or otherwise adulterated or misbranded. Under a hold order, milk or milk products shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on milk or milk products by the Department, and neither such milk or milk products nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Department, except on order by a court of competent jurisdiction.

Adding water to raw milk will be considered a violation of this Regulation if the raw milk contains in excess of three percent (3%) water. A cryoscope shall be used to determine percentage of water by measuring the freezing point of the raw milk. When the freezing point of milk and milk products, other than cultured products, is greater than 32.945°F (-0.525°C), the farm or plant owner or manager shall be notified that the milk or milk product apparently contains added water. If a second violation of this freezing point standard occurs within two (2) years, milking or processing operations may be observed, and samples will be collected and analyzed. The freezing point obtained from milk collected during the observation shall be used to determine a definite freezing point standard from the individual farm or plant. A violation of the determined freezing point

standard for a specific operation by over three (3%) percent within two (2) years of setting the standard for the individual farm or plant shall call for a two (2) calendar day permit suspension or equivalent.

When milk or milk products are found to be adulterated by the presence of drugs, pesticides, herbicides, or other poisonous substances, they shall be placed under a hold order and additional samples analyzed. Milk or milk products found to be adulterated shall be disposed of until analysis shows the product not to be adulterated. If testing reveals milk or milk products are positive for drug residues, the milk or milk products shall be disposed of in a manner that removes it from the human or animal food chain, except where acceptably reconditioned under FDA Compliance Policy Guide (CPG 7126.20). The Department shall determine the producer(s) responsible for the drug residue violation and immediately suspend the producer's Grade "A" permit or equally effective measures shall be taken to prevent the sale or distribution of milk or milk products containing drug residues, and a penalty shall be imposed. Future pick-ups, sales, or distribution are prohibited until subsequent testing reveals the milk or milk product is free of drug residue. The penalty shall be for the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. The Department may accept certification from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements. The Grade "A" producer's permit may be reinstated, or other action taken, to allow the sale of milk or milk products for human food, when a representative sample taken from the producer's milk or milk products, prior to commingling with any other milk or milk product, is no longer positive for drug residue. Whenever a drug residue test is positive, a recall shall be initiated, and an investigation shall be made to determine the cause. The farm inspection must be completed by the Department to determine the cause of the residue and actions that must be taken to prevent future violations including:

i. On-farm changes in procedures necessary to prevent future occurrences as recommended by the Department.

ii. Discussion and education on the Drug Residue Avoidance Control measures outlined in Appendix C of the PMO.

When pasteurized milk or milk products are found to be adulterated by drugs, pesticides, herbicides, or other poisonous substances, the adulterated products shall be removed from the market, disposed of, and sale stopped until analysis proves the product to be free from adulteration.

b. The following applies in addition to the Administrative Procedures part of Section 2:

When two (2) of the last four (4) samples of a pasteurized product are in violation of the milkfat or milk solids not fat standard for that product a warning letter shall be issued by the Department. When three (3) of the last five (5) samples are in violation, the Department shall suspend the permit.

3. Section 3, Permits applies with the following exceptions:

a. The second paragraph on page 17 of the PMO, 2019 Revision (paragraph beginning with "Upon notification") shall not apply.

b. The following replaces the entire Administrative Procedures part of Section 3:

ISSUANCE OF PERMITS: Every milk producer, milk product producer, milk distributor, milk products distributor, bulk milk hauler/sampler, milk tank truck, milk transportation company, milk plant, receiving station, transfer station, and milk tank truck cleaning facility operator shall hold a valid permit prior to beginning operation. No permit shall be issued until all parts of the operation meet the requirements of this regulation. Permits shall not be transferable to other persons/locations or used by a person other than the permit holder. The permit for a milk tank truck(s) may be issued to the milk transportation company. Milk producers who transport milk or milk products only from their own dairy farms; employees of a milk distributor or milk plant operator who possesses a valid permit; and employees of a milk transportation company that possesses a

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valid permit and transports milk or milk products from a milk plant, receiving station or transfer station shall not be required to possess a bulk milk hauler/sampler's permit. Grocery stores, restaurants, soda fountains and similar establishments where milk and milk products are served or sold at retail, but not processed, may be exempt from the requirements of this Section.

While compliance with the requirements for Grade "A" condensed and dry milk products is necessary to receive and retain a permit for these products, it is not the intent of this Regulation to limit the production of a milk plant that condenses and/or dries milk or milk products to Grade "A" products.

The manufacture of ungraded products for other uses in milk plants operating under a permit for the manufacture of Grade "A" condensed and dry milk products is allowed under conditions specified in Section 7 of the Ordinance and whereby such products are processed, packaged, and stored separately. In such cases, a second permit is required, which is issued with the understanding that ungraded products shall be handled in such a manner so as to avoid confusion with the Grade "A" production.

Either or both permits may be temporarily suspended for the violation of any applicable provision of this Regulation or the Ordinance, or revoked for a serious or repeated violation. Suspension of permits for violation of the sanitation Items of Section 7 is provided for in Section 5 of the Ordinance. In addition, the Department may, at any time, institute court action under the provisions of Section 6 of the Ordinance. There is no specific frequency for the issuance of permits. This should be in accordance with the policies of the Department and in agreement with those employed for the issuance of permits under this Regulation.

SUSPENSION OF PERMIT: The Department may temporarily suspend a permit whenever: it has reason to believe that a public health hazard exists; the permit holder has violated any of the applicable requirements of this Regulation or the Ordinance; the permit holder has violated its permit or an order of the Department, including but not limited to a hold order; the permit holder has interfered with the Department in the performance of its duties, including willful refusal to allow an authorized inspection/audit; or the permit holder exhibits hostile behavior toward a representative of the Department during the performance of its duties. A permit suspension shall remain in effect until any violation has been corrected to the satisfaction of the Department.

The Department may, without warning, notice, or hearing, immediately suspend a permit when, in the opinion of the Department, an imminent health hazard exists. An imminent health hazard may include, but is not limited to, a willful refusal to permit authorized inspection, serious or repeated violations of bacterial, coliform, somatic cell, cooling temperature standards, violation of drug residue test standards, or the presence of pathogenic organisms.

Following permit suspension, all manufacturing, bottling, and/or distribution operations shall immediately cease and remain ceased while the permit is suspended. A suspension of the permit shall remain in effect until the violation(s) and any imminent health hazard have been corrected to the satisfaction of the Department.

REVOCAION OF PERMIT: The Department may revoke a permit whenever the permit holder: has committed serious or repeated violations of any of the applicable requirements of this regulation, the Ordinance, a permit, or an order of the Department, including but not limited to a hold order; or has interfered with the Department in the performance of its duties, including willful refusal to allow an authorized inspection/audit. Notwithstanding any other provisions of this regulation, the permit may be revoked if any Department representative is threatened with bodily harm or physical interference in the performance of inspectional duties.

Following permit revocation, all manufacturing, bottling, and/or distribution operations shall immediately cease and remain ceased.

REINSTATEMENT OF PERMITS: Any permit holder whose permit has been suspended may make written application for the reinstatement of their permit. Any application for the reinstatement of a suspended permit must be in writing and must address all violations underlying the suspension and explain the steps taken to correct those violations.

When the permit suspension has been due to a violation of any of the bacterial, coliform, or cooling temperature standards, the Department, within one (1) week after the receipt of notification for reinstatement of permit, shall issue a temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. When a permit suspension has been due to a violation of the somatic cell count standard, the Department may issue a temporary permit whenever a resampling of the herd's milk supply indicates the milk supply to be within acceptable limits as prescribed in Section 7 of the Ordinance. Samples shall then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period. This accelerated sampling applies to bacteria, coliform, somatic cell count, and temperature. The Department shall reinstate the permit upon compliance with the appropriate standard as determined in accordance with Section 6 of the Ordinance.

Whenever the permit suspension has been due to a violation of a requirement other than bacteriological, coliform, somatic cell count, drug residue test, or cooling-temperature standards, the notification shall indicate that the violation(s) has been corrected. Within one (1) week of the receipt of such notification, the Department shall make an inspection/audit of the applicant's facility, and as many additional inspections/audits thereafter as are deemed necessary, to determine that the applicant's facility is complying with the requirements. When the findings justify, the permit shall be reinstated.

When a permit suspension has been due to a positive drug residue, the permit shall be reinstated in accordance with the provisions of Appendix N.

When a permit has been revoked, the holder of the revoked permit may make written application for a new permit; however, the Department may deny a new permit based upon past history, including previous enforcement, suspension, or revocation history. Any person whose permit is revoked shall not be eligible to apply for re-permitting within one (1) year from the date of revocation. Any person whose permit has previously been revoked and who obtains a subsequent permit and violates the provisions of this regulation, resulting in revocation of the permit for a second time, shall not be granted another permit for a period of five (5) years.

4. Section 5, Inspection of Dairy Farms and Milk Plants, applies in its entirety with the exception of:

a. Paragraph 3.c on page 22 in the PMO, 2019 Revision, applies in its entirety with the exception that it shall not apply to milk plants that are not Interstate Milk Shippers (IMS) listed.

b. The fifth paragraph on page 23 in the PMO, 2019 Revision (paragraph beginning with "One (1) copy") is replaced by the following: A copy of the inspection report will be provided, either electronically or in paper form, to the permit holder, manager, or other duly authorized representative.

c. The last sentence of the first paragraph on page 25 in the PMO, 2019 Revision (sentence beginning with "After receipt of a notice of violation") is replaced by the following: After receipt of an inspection report identifying a violation, but before the allotted time has elapsed, the milk producer, bulk milk hauler/sampler, responsible person for the milk tank truck, milk tank truck cleaning facility, milk plant, receiving station, transfer station, or distributor shall have an opportunity to request extension of the time allowed for correction.

5. Section 7, Item 7p, Water Supply, applies in its entirety with the addition of the following:

At a minimum, the water system must meet the state requirements for a category 3 small water system.

6. The following replaces the language of Section 15, Enforcement, in its entirety:

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a. This Regulation is adopted and enforced under the authority of S.C. Code Section 44-1-140 and Section 44-1-150. All applicable provisions of the Ordinance shall be enforced by the Department in accordance with this Regulation and the *Grade "A" PMO*, with Administrative Procedures, current edition, as applicable.

b. Compliance with all provisions of the Appendices adopted in this Regulation shall be deemed a requirement of the Ordinance and this Regulation.

c. Any person found to be in violation of this Regulation or an applicable requirement of the Ordinance, in noncompliance with an issued permit, or in violation of an order issued by the Department shall be subject to civil monetary penalties, permit suspension, and/or permit revocation.

7. The following replaces the language of Section 16, Penalty, in its entirety:

Violations shall be punishable in accordance with S.C. Code Section 44-1-150. Each day of continued violation shall be a separate offense.

8. Section 17, Repeal and Date of Effect of the PMO, 2019 Revision, shall not apply.

9. Appendix T applies in its entirety with the exception that it shall not apply to milk plants that are not IMS listed.

10. The following additional language applies in accordance with the Footnotes in the Ordinance:

The Department regulates cottage cheese, dry curd cottage cheese, and reduced fat or low-fat cottage cheese under the terms of the Ordinance. The additional provisions specified in Footnotes 7 through 13 for regulatory agencies that regulate such products are hereby adopted and incorporated by reference into the relevant portions of the Ordinance and this Regulation.

Fiscal Impact Statement:

There are no anticipated new costs associated with the implementation of these regulations to the state or its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATIONS:

61-34, Raw Milk for Human Consumption.

Purpose: The Department provides sanitation oversight for the production and sale of raw milk that has not been pasteurized for food safety in South Carolina. The Department is amending R.61-34 to address the further processing and sale of raw milk products, specifically, cream, kefir, and buttermilk, and any additional consumer advisory changes that would be needed for products that receive further processing or become necessary as a byproduct of further processing. The revisions also update raw milk standards as needed to align certain requirements with the 2019 version of the U.S. Food and Drug Administration Pasteurized Milk Ordinance ("PMO").

61-34.1, Pasteurized Milk and Milk Products.

Purpose: The Department provides sanitation oversight of the production and sale of pasteurized milk and milk products for both intrastate and interstate commerce. The Department is adopting requirements of the 2019 PMO through amendment of R.61-34.1. The regulation is currently based on the 2013 PMO and will not meet the federal standards after this year. The amendment of R.61-34.1 to incorporate the updated requirements of the 2019 PMO will enable South Carolina milk producers to continue to meet federal standards and ship milk and milk products for interstate commerce. The Department further provides clarification of requirements for potable water sources.

The Department is also revising R.61-34 and R.61-34.1 for clarity and readability, grammar, punctuation, and codification, and other regulatory text improvement. The amendments to both regulations also include updates to administrative and enforcement provisions.

Legal Authority: 1976 Code Sections 44-1-140(3) and 44-1-150.

Plan for Implementation: The amendments will take legal effect upon General Assembly approval and upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments. Additionally, a copy of the regulation will be posted on the Department's website, accessible at www.scdhec.gov/regulations-table. Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

The purpose of R.61-34, Raw Milk for Human Consumption, and R.61-34.1, Pasteurized Milk and Milk Products, is to safeguard public health and provide consumers safe, unadulterated milk and milk products manufactured in South Carolina for sale and distribution in state, and pasteurized milk and milk products sold and distributed both in and out of state. These regulations govern the production, processing, storing, labeling, transportation, and distribution of milk and milk products.

The Department last amended R.61-34 in 2009 and R.61-34.1 in 2015. Since those amendments there have been changes in the milk and milk products industry and numerous revisions to the PMO. The Department's regulations are based on the PMO and, in the case of R.61-34.1, the procedures of the National Conference on Interstate Milk Shippers (NCIMS), specifically Sections VI and VII of the *Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the NCIMS* and the *FDA PMO, 2019 Revision*, which provide that a state's dairy regulation must be at least as stringent as the PMO to meet requirements for interstate commerce of pasteurized milk and milk products. Updating R.61-34 and R.61-34.1 to the most current amendments of the PMO ensures the regulations reflect current standards and sanitation practices. Furthermore, South Carolina milk producers and processors will be able to continue shipment of milk and milk products in interstate commerce and market their milk products as Grade "A." Updating R.61-34.1 to reflect the current federal standards also serves to reduce administrative burdens on the regulated community by facilitating streamlined inspections and compliance under both state and federal requirements.

The Department is amending the provisions of R.61-34, Raw Milk for Human Consumption, and R.61-34.1, Pasteurized Milk and Milk Products, to incorporate relevant standards of the updated federal ordinance. In addition, the Department is amending the provisions of R.61-34 to incorporate sanitation standards to address the further processing of raw milk for human consumption. These changes serve to make clear those raw milk products that may be produced and sold pursuant to a Department permit and to specify standards for these products to promote clarity and protection of public health.

The amendments to these regulations also include updates to state-specific administrative and enforcement provisions that serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements.

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DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of these regulations. The amendments will benefit public health by ensuring safe, unadulterated dairy food and dairy food products on the farm, at manufacturing plants, and throughout the distribution chain. The amendments to these regulations also serve to improve the overall clarity and effectiveness of applicable administrative, enforcement, and other requirements. The amendment of R.61-34 and R.61-34.1 will allow the regulations to be in compliance with the most current food safety science regarding milk and milk products. Furthermore, for R.61-34.1 to be in compliance with the FDA Grade “A” Interstate Milk Shippers (IMS) procedures that govern the shipment of milk and milk products across state boundaries, the regulation may not be more than six (6) years behind the current NCIMS procedures and the PMO. By updating selected sections of R.61-34.1 to the 2019 PMO by reference, the regulation will meet this criteria and South Carolina milk producers will be able to continue to ship milk and milk products outside the limits of the state.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these regulations will not compromise the protection of the environment or the public health. The regulations will help to ensure that consumers are receiving safe, unadulterated dairy products. The amendment of R.61-34 and R.61-34.1 also provides effective means of reducing the risks of foodborne illnesses at dairy farms and dairy manufacturing plants, thus protecting consumers and industry from potentially devastating public health consequences and financial loss.

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

There will be no adverse effect on the environment if the regulations are not implemented.

Failure to adopt these amendments would prevent implementation of the latest sanitary standards and a comprehensive approach to food safety management needed in addressing food protection in the dairy industry. This could have a detrimental effect on the health of South Carolina’s citizens and visitors.

Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

The Department amends R.61-34 and R.61-34.1 to meet the latest sanitation requirements for providing safe, unadulterated pasteurized and unpasteurized dairy products to consumers and to ensure a comprehensive approach to food safety management in the dairy industry. Furthermore, the amendments to R.61-34.1 satisfy requirements for the shipment of milk and milk products produced under this regulation to be shipped outside the limits of South Carolina.

Document No. 5034
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF COSMETOLOGY
CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70, 40-13-60, and 40-13-230(D)

35-12. Emergency Temporary Work Permits. (New)

Synopsis:

The South Carolina State Board of Cosmetology proposes to add a regulation creating emergency temporary work permits.

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

Instructions:

Replace regulation as shown below. All other items and sections remain unchanged.

Text:

35-12. Emergency Temporary Work Permit.

A temporary work permit allowing a license candidate to work under the direct supervision of a Board licensee prior to licensure, may be issued for up to 90 days when due to a period of public emergency, candidates for licensure who have completed their education and are otherwise qualified for licensing do not have access to either or both parts (theory and practical) of the required licensing examination. The permit must be displayed in a conspicuous place adjacent to or near the permittee's work chair, with a 2 x 2 passport-type photograph of the permittee affixed to the permit.

The applicant must submit an application for the permit on a form approved by the Board, and must designate in the application an appropriately credentialed, licensed South Carolina cosmetologist, nail technician, or esthetician, whose license is in good standing, as their supervisor. The proposed supervisor must also sign the application, agreeing to provide direct supervision. Direct supervision means the supervisor must be present on the salon premises and available to provide oversight to the permittee when the permittee is performing cosmetology, nail technology or esthetic services on the public. Failure of the designated supervisor to provide direct supervision as required is deemed to be an unprofessional act. A temporary work permittee cannot provide these services unless under direct supervision in a licensed salon, and may not be the manager of a salon.

Additionally, to be eligible to apply for a temporary work permit, the license candidate must have applied or be eligible to apply to take the examination, and must not have failed any previous attempt to pass the part or parts of the licensing examination that have not been completed. Failing a remaining part or parts of the examination, or failing to timely apply for or to take a scheduled examination without good cause voids the permit. Working on a void or lapsed temporary work permit is deemed to be unlicensed practice. A temporary work permittee is subject to and must follow all applicable Board statutes and regulations, and is subject to discipline in the same manner as a licensee.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will add an emergency temporary work permit to allow licensees to work under the direct supervision of an identified licensee for up to ninety days in the event that a public emergency prevents cosmetology students from taking exams required for licensure.