



# South Carolina Association of Counties

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## **REGULATIONS UPDATE**

**To:** Chief Administrative Officers  
**From:** Susan Turkopuls  
**Subject:** State Fire Marshal: *Article 8 Amendments (Doc. No. 4555)*  
DHEC: *Repeal of Obsolete Regulations (Doc. No. 4552)*  
DHEC: *Consumer Electronic Equipment Collection and Recovery (Doc. No. 4539)*  
Criminal Justice Academy: *Article 5, Adjudication of Misconduct Allegations (Doc. No. 4523)*  
Criminal Justice Academy: *Suspension of Certification Due to Criminal Charges and/or Indictment (Doc. No. 4524, Doc. No. 4522)*

Please take note of the following items of interest from the **STATE REGISTER**. **PLEASE CIRCULATE TO APPROPRIATE STAFF FOR REVIEW AND COMMENT.** To view any proposed or final regulation online, go to <http://www.scstatehouse.gov/regnsrch.php>. You can search by document number, subject or agency. If you have any questions or comments, or are interested in obtaining a copy of any regulation, please call the SCAC offices at 1-800-922-6081.

### **PROPOSED**

#### **State Fire Marshal: Article 8 Amendments (Doc. No. 4555)**

The Office of State Fire Marshal proposes to repeal and/or amend Regulations 71-8300 through 71-8306 to eliminate redundant and unnecessary regulations; update the remaining existing regulations; use a standardized format for all regulations; and to make the current regulations compatible with current federal and state statutes. Full text of the proposed regulation may be viewed at [www.scstatehouse.gov/regnsrch.php](http://www.scstatehouse.gov/regnsrch.php).

Should a hearing be requested, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on February 5, 2015. Written comments may be directed to Robert Polk, State Fire Marshal, S.C. Department of Labor, Licensing and Regulation, Office of State Fire Marshal, 141 Monticello Trail, Columbia, South Carolina 29203, no later than 5:00 p.m., January 29, 2015. If a qualifying request is not timely received, the hearing will be canceled.

**DHEC: Repeal of Obsolete Regulations (Doc. No. 4552)**

DHEC has conducted its five-year review of its regulations and brings forth a listing of six obsolete Regulations, including:

- 61-38. Fairs, Camp Meetings, and Other Gathering
- 61-39. Camps
- 61-40. Mobile/Manufactured Home Park
- 61-42. Sanitation of Schools
- 61-46. Nuisances

These regulations have become obsolete and are no longer needed. Under current statutes and other regulations there exists sufficient authority to address and control any major requirements related to environmental or public health issues. As such, DHEC is proposing repeal of these regulations.

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation repeals at a public hearing to be conducted by the Board of Health and Environmental Control on March 12, 2015. The Board will conduct the public hearing, Third Floor, Aycock Building of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation repeals by writing to Sandra D. Craig, DHEC, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on January 26, 2015, the close of the public comment period. Written comments received by the January 26, 2015 deadline shall be considered by the Department in formulating the final proposed regulation repeals for public hearing on March 12, 2015, as noticed above. DHEC will submit a summary of public comments and responses to the Board for its consideration at the public hearing.

A copy, of the final proposed regulation repeals for public comment, may be obtained by contacting Sandra D. Craig at the above address.

**DHEC: Consumer Electronic Equipment Collection and Recovery (Doc. No. 4539)**

The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), codified at Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, establishes requirements for the sale, prohibition of disposal, and recovery of consumer electronic devices, specifically for household computers, printers and televisions. The Act requires DHEC to promulgate regulations to implement the provisions of the Act.

To satisfy the requirements of the Act, DHEC is proposing new Regulation 61-\_\_\_, Consumer Electronic Equipment Collection and Recovery. The proposed regulation establishes standards for labeling covered devices and for the registration of manufacturers of covered devices. The proposed regulation establishes procedures for banning covered devices from disposal in solid waste landfills and specifies annual registration fees for manufacturers of covered electronic devices. The proposed regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery and recycling of devices when no longer wanted by consumers and reporting requirements. The regulation will also establish fines for violations of the Act and the regulation.

## Section-by-Section Discussion of Proposed New Regulation:

Section A describes the purpose and scope of the regulation, lists the types of electronic devices that are subject to regulation and identifies the parties that are required to take action.

Section B defines the terms used throughout the regulation and presents the terms in alphabetical/numerical order.

Section C provides authority to the Department to conduct audits and inspections of recovery facilities and records to determine compliance with State law and the regulation.

Section D establishes labeling requirements for covered devices and clarifies the responsibilities of retailers with regards to the regulation.

Section E implements the disposal prohibition of covered devices.

Section F lists the standards for management of covered devices during the recovery process and prior to material acceptance by a consumer electronic device stewardship program or a certified recovery facility.

Section G lists the requirements for manufacturers of computers, printers, and other computer devices that are not monitors, to sell and recover devices and for payment of registration fees to the Department.

Section H lists the general recovery and registration requirements for all manufacturers of covered televisions or computer monitors that sell more than five hundred (500) covered devices in South Carolina.

Section I describes the reporting requirements and recovery obligations for manufacturers of covered televisions and computer monitors for independent consumer devices stewardship programs not participating in a representative organization and shortfall penalties for failing to meet recovery obligations.

Section J describes the options for annual reporting for manufacturers of covered televisions and computer monitors participating in a representative organization, their exemption from annual registration fees, and the consequences for manufacturers that do not fulfill their individual recycling obligation as assigned by the representative organization.

Section K defines the requirements of a representative organization for annual reporting and for developing a plan, subject to Department approval, that provides recycling for all covered devices throughout a program year from local governments participating in the plan.

Section L describes the procedural steps and timing for evaluating consumer electronic device stewardship plans from representative organizations and fee payment requirement when the plan is approved.

Section M establishes the requirements for recoverers of covered devices in South Carolina, including requirements that they register with the Department and that they provide a financial assurance mechanism in an amount that would cover the costs for third party removal of all covered devices or waste material from the facility.

Section N sets a maximum penalty of one thousand dollars (\$1,000) for each violation of this regulation.

Section O protects the remaining portion of the regulation should any part or language be declared invalid.

Section P states the date of the repeal of this regulation.

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control on January 8, 2015. The Board will conduct the public hearing in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda published by the Department twenty-four (24) hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/docs/AGENDA.pdf>. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

Copies of the proposed new regulation may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

**Criminal Justice Academy: Article 5, Adjudication of Misconduct Allegations (Doc. No. 4523)**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed additions to the regulations will formalize the agency level contested case hearing process, including requests for contested case hearing, failure to request a contested case hearing, docketing, discovery, hearing format and requirements; failure to appear at contested case hearing, final decision by the Law Enforcement Training Council, sanctions, recusal of Council members, and right to be represented by counsel.

**Section-by-Section Discussion:**

**ARTICLE 5 (New)**

37-101 This section deals with requests for contested case hearings.

37-102 This section deals with what happens if an officer fails to request a contested case hearing.

37-103 This section deals with prosecution of the allegation of misconduct and docketing of the contested case hearing.

37-104 This section deals with discovery in preparation for the contested case hearing.

37-105 This section deals with the mechanics of how the contested case hearing will run, including notice of the hearing and issuance of a recommendation after the hearing.

37-106 This section deals with failure of the agency or the officer to appear at the contested case hearing.

37-107 This section deals with the Council's issuance of the final agency decision.

37-108 This section outlines the sanctions available in cases of misconduct, including a voluntary consent to sanctions provision.

37-109 This section deals with recusal of Council members and/or the Director in certain situations.

37-110 This section deals with a candidate/officer's right to be represented by Counsel.

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on January 28, 2014 to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administration building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Brandy A. Duncan, Chief General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on January 26, 2014. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on January 28, 2014, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Criminal Justice Academy: Suspension of Certification Due to Criminal Charges and/or Indictment (Doc. No. 4524)**

The Law Enforcement Training Council Training Council proposes permanent regulations to address situations in which certified law enforcement officers are charged and/or indicted for crimes that, if they resulted in a conviction, could result in disqualification. Due to the potential danger posed to the public in allowing these individuals to remain actively engaged in law enforcement duties while such charges are pending, the Training Council believes a permanent regulation is necessary.

Section-by-Section Discussion:

Article 5 (New)

37-100 This section deals with suspending certification when law enforcement officers are charged or indicted for crimes which, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016.

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on January 28, 2014 to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administration building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Brandy A. Duncan, Chief General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on January 26, 2014. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on January 28, 2014, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**EMERGENCY**

**Criminal Justice Academy: Suspension of Certification Due to Criminal Charges and/or Indictment (Doc. No. 4522)**

Emergency Situation:

The Law Enforcement Training Council has noted some currently certified law enforcement officers are charged and/or indicted for crimes that, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016. Due to the potential danger posed to the public in allowing these individuals to remain actively engaged in law enforcement duties while such charges are pending, the Training Council believes this emergency regulation is necessary.

Text:

ARTICLE 5

ADJUDICATION OF MISCONDUCT ALLEGATIONS

37-100. Suspension of Certification Due to Criminal Charges and/or Indictment.

A. If a law enforcement officer is charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016, the officer's law enforcement certification will be automatically suspended until the criminal charge is resolved.

B. Upon receiving notification that a law enforcement officer has been charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016, the Academy shall notify the officer and the officer's current law enforcement employer of the automatic suspension of the officer's law enforcement certification. This notification shall be sent by

registered mail, to the current address on file at the Academy, return receipt requested, to the officer and to the current law enforcement employer. It is the responsibility of every law enforcement officer to notify the Academy of his or her current address.

C. Once the criminal charge against the law enforcement officer has been resolved:

1. Should the resolution be in the officer's favor (Not guilty, nol pros, expungement, pardon), it is the responsibility of the officer to notify the Academy of the resolution of the criminal charge(s) by providing the Academy with certified copies of Court document(s) showing the resolution of the criminal charges; or
2. Should the resolution be a conviction, plea of guilty, or plea of no contest it shall be the responsibility of the law enforcement employer to notify the Academy of the resolution of the criminal charge(s) by providing the Academy with certified copies of the Court document(s) showing the resolution of the criminal charge(s).