



# South Carolina Association of Counties

Belinda D. Copeland, President  
*Darlington County*

Michael B. Cone  
*Executive Director*

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## **REGULATIONS UPDATE**

To: Chief Administrative Officers

From: Susan Turkopuls

**Subject:** **State Fire Marshal: *Adoption of Latest Edition of Nationally Recognized Codes***  
**DHEC: *Air Pollution Control Regulations and Standards***  
**DHEC: *Underground Storage Tank Control Regulations***  
**Department of Revenue: *Accommodations Tax Exception***  
**Department of Revenue: *Sales Tax on Accommodations***  
**Department of Revenue: *Sales and Use Tax – Food Tax***  
**Department of Revenue: *Sales and Use Tax – Transfers of Tangible Personal Property***  
**DHEC: *Air Pollution Control Regulations and the SC Air Quality Implementation Plan (SIP)***  
**Building Codes Council: *National Electric Code***

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.net/html-pages/research.html>. You can search by document number, subject, or agency. If you have any questions, comments or are interested in obtaining a copy of any regulation, please call the SCAC offices at 1-800-922-6081.

## **NOTICE**

### **State Fire Marshal: *Adoption of Latest Edition of Nationally Recognized Codes***

The Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 72, National Fire Alarm Code, 2007 Edition

## DRAFTING

### **DHEC: Air Pollution Control Regulations and Standards**

The Department is proposing to amend 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards* and 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories* to incorporate by reference recent Federal amendments promulgated during the period from January 1, 2006, through December 31, 2006. Recent Federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.

Interested persons are invited to present their views concerning these amendments in writing to Anthony T. Lofton, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by July 25, 2007, the close of the drafting comment period.

### **DHEC: Underground Storage Tank Control Regulations**

The Department proposes to amend Regulation 61-92, *Underground Storage Tank Control Regulation,s* in order to implement requirements set forth by the Underground Storage Tank Compliance Act. Requirements include new underground storage tank systems; and manufacturer and installer financial responsibility and certification, consistent with the requirements in Section 1530; training requirements for operators and employees under Section 1524, and delivery prohibition implementation under Section 1527.

Interested persons may submit comments to Robert L. Hutchinson, Underground Storage Tank Program, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2007, the close of the drafting comment period.

### **Department of Revenue: Accommodations Tax Exception**

The Department is considering amending SC Regulation 117-307.3 concerning the application of the sales and use tax to the rental or charges for any rooms, lodgings or accommodations and the exception for facilities that consist of less than six sleeping rooms, contained on the same premises, which are used as the place of abode of the owner or operator.

The purpose of this regulation is to incorporate the longstanding position of the Department that in order for the exception to apply, the facility must serve as the owner's or operator's "place of abode" during the same times at which the remaining sleeping rooms are rented to transients. The rooms must not be rented to transients by a person other than the owner or operator using the facility as his or her "place of abode."

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2007.

### **Department of Revenue: Sales Tax on Accommodations**

The Department is considering amending SC Regulation 117-307 and SC Regulation 117-307.1 to change the 5% tax rate to the new 6% tax rate with respect to additional guest charges at places providing sleeping accommodations under Code Section 12-36-920(B) and all other sales of tangible personal property at a place providing sleeping accommodations. The amendment would be effective June 1, 2007 – the effective date of the 6% tax rate.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2007.

### **Department of Revenue: Sales and Use Tax – Food Tax**

The South Carolina Department of Revenue is considering adding SC Regulation 117-337 to provide guidance as to the application of Code Section 12-36-910(D) which imposes a reduced sales and use tax rate “on the gross proceeds of sales or sales price of unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons.”

Under the proposed regulation, the determination as to whether a sale of unprepared food qualifies for the reduced food tax rate is based on whether the food is of a type that is eligible to be purchased with USDA food stamps, the type of location selling the food, and whether the food is being sold for immediate consumption, business or institutional consumption, or home consumption. A food must be of a type eligible to be purchased with USDA food stamps and must also be sold for home consumption (based on the type of food and the type of location selling the food) to qualify for the reduced food tax rate. For example, bottled soft drinks are eligible to be purchased with USDA food stamps, but if bottled soft drinks are sold at a concession stand at a festival, then the bottled soft drinks are sold for immediate consumption and not home consumption, and the sale at the festival would be subject to the full state sales tax rate.

This regulation will explain which sales of food qualify or do not qualify for the reduced food tax rate.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2007.

### **Department of Revenue: Sales and Use Tax – Transfers of Tangible Personal Property**

The Department is considering amending SC Regulation 117-304.1 concerning the application of the sales and use tax to transfers of tangible personal property from a State agency to another State agency, a county or a municipality. This regulation presently does not deem such transfers to be sales at retail, provided the transferring agency is only reimbursed its costs and paid the tax on its initial purchase of the tangible personal property. The proposed amendment is a technical correction concerning Code Section 12-36-910(B)(4) to ensure that a State agency that manufactures tangible personal property receives the same treatment for property it manufactures and uses that it would if it manufactured the property and transferred it to another agency, county or municipality at cost.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2007.

## **FINAL REGULATIONS**

### **DHEC: Air Pollution Control Regulations and the SC Air Quality Implementation Plan (SIP)**

The amendments of Regulation 61-62, *Air Pollution Control Regulations and Standards*, have been revised to comply with the U.S. EPA’s “Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule)” (also referred to as CAIR) and the “Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units” (also referred to as CAMR). The legal authority for Regulation 61-62 is Section 48-1-10 et seq., S.C. Code of Laws.

The EPA requires South Carolina to submit a revised SIP under CAIR in order to reduce emissions of sulfur dioxide (SO<sub>2</sub>) and/or nitrogen oxides (NO<sub>x</sub>). South Carolina is also required to submit a 111 (d) plan under CAMR. In accordance with Section 111 of the Clean Air Act, this rule establishes standards of performance for mercury for new and existing coal-fired EGUs that states must adopt and requires EPA review and approval. CAMR establishes a cap-and-trade program for mercury emissions from new and existing coal-fired EGUs that states can adopt as a means of complying with the Federal requirements.

DHEC has missed the submission deadline for a revised SIP and 111(d) plan and the EPA has already finalized a Federal Implementation Plan (FIP) and 111(d) Plan for states not meeting the deadline. However, the EPA has assured the Department that it will withdraw its FIP and 111(d) Plan when the Department finalizes and submits its SIP and 111(d) Plan to them.

The following regulations have been comprehensively revised to comply with Federal rules. Details of the revisions may be viewed on-line at <http://www.scstatehouse.net/html-pages/research.html>.

R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

R. 61-62.72, Acid Rain

R.61-62.96, Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program General Provisions

### **Building Codes Council: *National Electric Code***

The South Carolina Building Codes Council has modified the National Electrical Code, 2005 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications. The modification provides an additional exception to allow the omission of arc-fault protectors on dedicated circuits in bedrooms serving smoke detectors only. These provisions will be established in regulations designated under Article 5—National Electrical Code.

Article 5—National Electrical Code is identical to Regulation 8-500 of the National Electrical Code, 2005 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced above.