Board:
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David W. Gillespie, MD
William Lee Hewitt, III

South Carolina Board of Health and Environmental Control

Agenda
November 10, 2016

Call to Order – 10:00 a.m., Board Room (#3420)
South Carolina Department of Health and Environmental Control
2600 Bull Street, Columbia, S.C.

1. Minutes of October 13, 2016, meeting

2. Administrative Orders and Consent Orders issued by Environmental Affairs

3. Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation

4. Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-94, WIC Vendors, State Register Document No. 4581, Legislative Review is required

5. Public Hearing and Request for Approval for Placement of synthetic opioid, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700, "PINK"), into schedule I for Controlled Substances

6. Agency Affairs

Executive Session

Adjournment

SUMMARY SHEET
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
November 8, 2016

_____ ACTION/DECISION

___X___ INFORMATION

I. **TITLE:** Administrative and Consent Orders issued by Environmental Affairs.

II. **SUBJECT:** Administrative and Consent Orders issued by Environmental Quality Control (EQC) and Ocean and Coastal Resource Management (OCRM) during the period September 1, 2016 – September 30, 2016.

III. **FACTS:** For the period of September 1, 2016, through September 30, 2016, Environmental Affairs issued eight-seven (87) Consent Orders with total assessed civil penalties in the amount of $200,097.00.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Orders	Assessed Penalties
Land and Waste Management				
UST Program	0	0	9	$14,142.00
Aboveground Tanks	0	0	0	0
Infectious Waste	0	0	0	0
Hazardous Waste	0	0	1	$26,000.00
Radiological Waste	0	0	0	0
Solid Waste	0	0	1	0
SUBTOTAL	0	0	11	$40,142.00
Water				
Recreational Water	0	0	37	$28,310.00
Drinking Water	0	0	6	$5,000.00
Water Pollution	0	0	7	$103,845.00
SUBTOTAL	0	0	50	$137,155.00
Air Quality				
SUBTOTAL	0	0	0	0
Environmental Health Services				
SUBTOTAL	0	0	26	$22,800.00
OCRM				
SUBTOTAL	0	0	0	0
TOTAL	**0**	**0**	**87**	**$200,097.00**

Submitted by:

Myra C. Reece
Director of Environmental Affairs

ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
November 8, 2016

BUREAU OF LAND AND WASTE MANAGEMENT

Underground Storage Tank Enforcement

1) Order Type and Number: Consent Order 16-0097-UST
Order Date: September 30, 2016
Individual/Entity: **BillyBob's Marinas, Inc.**
Facility: Hilton Head Harbor RV Resort & Marina
Location: 43-A Jenkins Road
Hilton Head Island, SC 29926
Mailing Address: P.O. Box 21585
Hilton Head Island, SC 29925
County: Beaufort
*Previous Orders: None
Permit/ID Number: 00977
Violations Cited: State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act) (Supp. 2014) and the South Carolina Underground Storage Tank Control Regulation 61-92.280.20(c)(1)(ii) (2012).

Summary: BillyBob's Marinas, Inc. (Individual/Entity) owns and operates underground storage tanks (USTs) in Beaufort County, South Carolina. An inspection conducted on May 3, 2016. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulations as follows: failed to equip an underground storage tank system with overfill protection.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand dollars **($2,000.00)**. All violations were corrected prior to the issuance of the Order.

2) Order Type and Number: Consent Order 16-0129-UST
Order Date: September 1, 2016
Individual/Entity: **Sokpun Flores**
Facility: Ganesh Food Mart
Location: 32 Savannah Highway
Burton, SC
Mailing Address: 7641 Lumbis Ave., Apt. 104
Anchorage, Alaska 99518-3162
County: Beaufort
Previous Orders: 15-0413-UST ($600.00)
Permit/ID Number: 00994

Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq*. (2002 and Supp. 2014); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.20(e), 61-92.280.30(a), 61-92.280.31(c), 61-92.280.34(c), 61-92.280.40(a), 61-92.280.41(b)(1)(ii), 61-92.280.43(h), 61-92.280.44(a), and 61-92.280.52 (Supp 2012).

Summary: Sokpun Flores (Individual/Entity) owns and operates underground storage tanks (USTs) located in Beaufort, South Carolina. On April 18, 2016, the Department conducted a routine inspection and issued a Notice of Alleged Violation because shear valves in dispensers 1/2 and 3/4 were not properly installed; the regular unleaded spill bucket was cracked; there was no rectifier log available at the time of the inspection; there were no Statistical Inventory Reconciliation (SIR)/release detection records available at the time of the inspection; and, there was no line leak detector test results available at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulation as follows: failed to install tanks and piping in accordance with manufacturer's instructions; failed to ensure that releases due to spilling or overfilling do not occur; failed to inspect the impressed current system every sixty (60) days; failed to provide records to the Department upon request; failed to provide adequate release detection methods for an UST system; failed to conduct an annual line tightness test on pressurized line or have monthly monitoring; failed to conduct proper release detection using SIR; failed to conduct annual test of automatic line leak detectors; and failure to investigate or confirm a suspected release within a reasonable time.

Action: The Individual/Entity is required to: submit proof that the shear valves in dispensers 1/2 and ¾ are properly installed; submit proof that the regular unleaded spill bucket has been repaired/replaced and site check results; submit the most current month's reading on the rectifier; submit line leak detector function check results for regular unleaded/premium lines; submit twelve (12) months of SIR records or tank tightness and line tightness test results for all USTs; and, pay a civil penalty in the amount of three thousand, three hundred forty-two dollars **($3,342.00)**.

3) Order Type and Number: Consent Order 16-0077-UST
Order Date: September 1, 2016
Individual/Entity: **Anjud 1, LLC**
Facility: Anjud 1, LLC
Location: 430 Parris Island Gateway
Beaufort, SC 29906
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 01020
Violations Cited: State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act) (2002 and Supp. 2014), and South Carolina Underground Storage Tank Control Regulation R.61-92.280.20(c)(1)(ii) (Supp 2012).

Summary: Anjud 1, LLC (Individual/Entity) owns and operates underground storage tanks (USTs) located in Beaufort, South Carolina. On April 5, 2016, the Department conducted an inspection and issued a Notice of Alleged Violation because there was no ball float vent valve on the Premium UST at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Regulation as follows: failed to maintain adequate overfill prevention.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars **($1,000.00)**. All violations were corrected prior to the issuance of the Order.

4) Order Type and Number: Consent Order 16-0082-UST
Order Date: September 1, 2016
Individual/Entity: **Lucky Strike Investments, Inc.**
Facility: Corner Stop 19
Location: 1215 Greenwood Road
Laurens, SC 29360-0881
Mailing Address: 401 Black Oak Court
Spartanburg, SC 29306
County: Laurens
Previous Orders: None
Permit/ID Number: 05667
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq*. (2002 and Supp. 2014) and Section 44-2-60(A).

Summary: Lucky Strike Investments, Inc. (Individual/Entity) owns underground storage tanks (USTs) located in Laurens, South Carolina. On March 8, 2016, the Department conducted an inspection at the facility and issued a Notice of Alleged Violation for not maintaining appropriate release detection on a temporarily closed UST, in that there was more than one (1) inch of residue in the Kerosene UST that had been in extended out of use status since 2012. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulation as follows: failed to continue release detection for a temporarily closed UST that has not been emptied to less than one inch of residue.

Action: The Individual/Entity is required to: submit proof that the UST has been emptied to less than one (1) inch of residue; and, pay a civil penalty in the amount of five hundred dollars **($500.00)**.

5) Order Type and Number: Consent Order 16-0210-UST
Order Date: September 8, 2016
Individual/Entity: **TA Operating, LLC**
Facility: Travel Centers of America 262
Location: 7400 Wilson Boulevard
Columbia, South Carolina
Mailing Address: 24601 Center Ridge Road

Westlake, Ohio 44145
County: Richland
Previous Orders: None
Permit/ID Number: 09732
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq*. (2002 and Supp. 2014); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.41(b)(1)(i) (Supp 2012).

Summary: TA Operating, LLC (Individual/Entity) owns and operates underground storage tanks (USTs) located in Columbia, South Carolina. On July 19, 2016, the Department conducted a routine inspection and issued a Notice of Alleged Violation because there was no automatic line leak detector present on the diesel line at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulation as follows: failed to equip a pressurized line with an automatic line leak detector. The automatic line leak detector was installed on the premium line and tested on July 29, 2016.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars **($1,000.00)**.

6) Order Type and Number: Consent Order 16-0191-UST
Order Date: September 1, 2016
Individual/Entity: **Manish S. Patel**
Facility: EZ Stop 4
Location: 529 East Main Street
Ridgeland, South Carolina
Mailing Address: 2004 Gunpowder Court
Summerville, SC 29485-8871
County: Jasper
Previous Orders: None
Permit/ID Number: 12224
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq*. (2002 and Supp. 2014); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.41(b)(1)(i) (Supp 2012).

Summary: Manish S. Patel (Individual/Entity) owns and operates underground storage tanks (USTs) located in Ridgeland, South Carolina. On July 12, 2016, the Department conducted a routine inspection and issued a Notice of Alleged Violation because there was no automatic line leak detector present on the premium line at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulation as follows: failed to equip a pressurized line with an automatic line leak detector. The automatic line leak detector was installed on the premium line and tested on July 28, 2016.

Action: The Individual/Entity is required to: pay a civil penalty in the amount

of one thousand dollars **($1,000.00)**.

7) Order Type and Number: Consent Order 16-0162-UST
Order Date: September 30, 2016
Individual/Entity: **City of Isle of Palms**
Facility: Isle of Palms Public Safety Building
Location: 30 JC Long Boulevard
Isle of Palms, SC 29451
Mailing Address: P.O. Box 508
Isle of Palms, SC 29451
County: Charleston
Previous Orders: None
Permit/ID Number: 19447
Violations Cited: State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act) (2002 and Supp. 2014), and South Carolina Underground Storage Tank Control Regulation R.61-92.280.41(b)(1)(i) (Supp 2012).

Summary: The City of Isle of Palms (Individual/Entity) owns and operates underground storage tanks (USTs) located in Isle of Palms, South Carolina. On July 8, 2016, the Department conducted an inspection and issued a Notice of Alleged Violation because there was no automatic line leak detector on the Diesel UST at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Regulation as follows: failure to equip a pressurized line with an automatic line leak detector. The Individual/Entity has submitted proof that an automatic line leak detector had been installed on the Diesel UST.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars **($1,000.00)**.

8) Order Type and Number: Consent Order 16-0190-UST
Order Date: September 1, 2016
Individual/Entity: **Eagle Transport Corporation**
Facility: Kroger GA 678
Location: 1025 Roberts Branch Parkway
Columbia, SC
Mailing Address: 300 South Wesleyan Blvd, Ste 202
Rocky Mount, NC 27804
County: Richland
Previous Orders: None
Permit/ID Number: 19809
Violations Cited: State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act) (2002 and Supp. 2014), and South Carolina Underground Storage Tank Control Regulation R.61-92.280.10(e) (Supp 2012).

Summary: Eagle Transport Corporation (Individual/Entity) supplied underground storage tanks (USTs) with petroleum/petroleum products located in

Columbia, South Carolina. On July 20, 2016, the Department conducted an inspection and issued a Notice of Alleged Violation because deliveries had been made to an UST which did not hold a currently valid registration. The Individual/Entity has violated the South Carolina Underground Storage Tank Regulation as follows: introduction of petroleum or petroleum products into an UST for which the owner did not hold a currently valid registration.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars **($1,000.00)**.

9) Order Type and Number: Consent Order 15-0448-UST
Order Date: September 1, 2016
Individual/Entity: **Rafat Abudayya**
Facility: Hot Zone Mart
Location: 401 Lockemy Highway
Dillon, SC 29536
Mailing Address: Same
County: Dillon
Previous Orders: None
Permit/ID Number: 10297
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq*. (2002 and Supp. 2014); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.31(a), 61-92.280.34(c), 61-92.280.35(e), 61-92.280.35(f), 61-92.280.35(g), and 61-92.280.35(h) (Supp 2012).

Summary: Rafat Abudayya (Individual/Entity) owns and operates underground storage tanks (USTs) located in Dillon, South Carolina. On August 14, 2015, the Department conducted a routine inspection and issued a Notice of Alleged Violation because the corrosion protection system test indicated failing results for the piping as if the piping was not tied into the corrosion protection system. On June 26, 2016, the Department conducted a routine inspection and issued a Notice of Alleged Violation because there was no A/B operator log and no list of C operators available at the time of the inspection. The Individual/Entity has violated the South Carolina Underground Storage Tank Control Regulation as follows: failed to operate and maintain all corrosion protection systems to continuously provide corrosion protection to the metal components of that portion of the piping that routinely contain regulated substances and are in contact with the ground; failed to provide records to the Department upon request; failed to validate monthly requirements have been performed; failed to physically visit each assigned facility once a quarter; failed to train C operators before they assumed responsibility for the UST system; and failed to designate in writing Class C operators and keep a copy at the facility.

Action: The Individual/Entity is required to: submit acceptable corrosion protection system test results, or permanently close the USTs; proof that an A/B log is being kept; a list of Class C operators; and, pay a civil penalty in the amount of three thousand, three hundred dollars **($3,300.00)** for the violations cited herein.

Hazardous Waste Enforcement

10) Order Type and Number: Consent Order 16-13-HW
Order Date: September 19, 2016
Individual/Entity: **ESAB Welding and Cutting Products**
Facility: ESAB Welding and Cutting Products
Location: 411 South Ebenezer Road
Florence, SC 29501
Mailing Address: 2800 Airport Road
Denton, Texas 76207
County: Florence
Previous Orders: N/A
Permit/ID Number: SCD 005 574 967
Violations Cited: The South Carolina Hazardous Waste Management Act**,** S.C. Code Ann. §44-56-10 *et seq.* (2002 & Supp. 2015), the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2015), and the South Carolina Solid Waste Management: Used Oil Regulations, 8 S.C. Code Regs. 61-107.279 (2012).

Summary: ESAB Welding and Cutting Products (Individual/Entity) is a manufacturer of electrical welding and cutting equipment and supplies. On March 31, 2016, the Department conducted an inspection. The Individual/Entity violated the Hazardous Waste Management Regulations and the Solid Waste Management: Used Oil Regulations as follows: failed to accurately determine if a waste was a hazardous waste; failed to ensure that the date upon which each period of accumulation began was clearly marked and visible for inspection on each container; failed to ensure while being accumulated onsite, each container was labeled or clearly marked with the EPA Hazardous Waste Number and the words: "Hazardous Waste – federal laws prohibit improper disposal;" failed to receive an extension from the Department granting hazardous waste to remain onsite for longer than 90 days; failed to manage universal waste lamps in a way that prevents releases by containing lamps in containers or packages that are kept closed, and structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps; failed to ensure that each lamp or a container or package in which such lamps are contained is labeled or marked clearly with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s);" failed to place universal waste in a container and mark or label the container with the earliest date that any universal waste in the container became a waste or was received; failed to review and immediately amend its contingency plan whenever the list of emergency coordinators changed; failed to ensure that facility personnel take part in an annual review of the initial training; failed to record inspections in an inspection log or summary; failed to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors; failed to list the types and quantities of hazardous waste remaining in storage at the end of the fourth quarter reporting period for 2015; and, failed to label containers and aboveground tanks used to store used oil with the words "Used Oil."

Action: The Individual/Entity is required to: ensure future compliance with the South Carolina Hazardous Waste Management Act and Regulations and the South Carolina Solid Waste Policy and Management Act and Regulations; and, pay a civil penalty in the amount of twenty-six thousand dollars **($26,000.00)** in installments.

Solid Waste Enforcement

11) Order Type and Number: Consent Order 16-15-SW
Order Date: September 13, 2016
Individual/Entity: **Dana Moore**
Facility: USA Waste and Recycling
Location: 1972 Harry Byrd Blvd.
Darlington, SC
Mailing Address: Same
County: Darlington
Previous Orders: N/A
Permit/ID Number: None
Violations Cited: The South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. 44-96-10 et seq. (2002 & Supp. 2014), Solid Waste Landfills and Structural Fill, R. 61-107.19 (Supp. 2012), and 8 S.C. Code Ann. Regs., R. 61-107.3 (2015) (Waste Tires).

Summary: Dana Moore (Individual/Entity) operates a recycling business located in Darlington, South Carolina. On January 14, 2016, the Department issued a Notice of Alleged Violation/Notice of Enforcement Conference regarding the large amount of recyclable material/solid waste stored on the Site. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act of 1991, the South Carolina Solid Waste Landfills and Structural Fill Regulation, and the South Carolina Waste Tire Regulation as follows: operated a solid waste management facility without a permit, operated a Class Three Landfill without a permit, operated a waste tire collection facility without a permit and hauling waste tires without registering with the Department.

Action: The Individual/Entity is required to: discontinue collecting and hauling tires; remove and dispose of all solid waste and waste tires at the Site in a permitted solid waste collection or recycling facility; provide disposal receipts; and, pay a **suspended penalty** in the amount of forty thousand, seven hundred fifty dollars **($40,750.00)** should any requirement of the Order not be met.

BUREAU OF WATER

Recreational Water Enforcement

12) Order Type and Number: Consent Order 16-087-RW
Order Date: September 6, 2016

Individual/Entity:	**Hilton Head Hospitality, LLC**
Facility:	Grand Hilton Head Inn
Location:	36 South Forest Beach Drive
Mailing Address:	Same
County:	Beaufort
Previous Orders:	None
Permit/ID Number:	07-406-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Hilton Head Hospitality, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 15, 2016, and July 7, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the pH level was not within the acceptable range of water quality standards; there were no "Shallow Water – No Diving Allowed" signs posted on the first inspection and only one sign was posted on the second inspection; there were no "No Lifeguard On Duty – Swim At Your Own Risk" signs posted; the deck was not clean or clear of hazards; the gate did not self-close and latch; there was no drinking water fountain; the emergency notification device was not operational; the facility could not produce current valid documentation of pool operator certification; and, the bound and numbered log book was not available for review. On July 8, 2016, a follow-up inspection was conducted and it was determined that all of the deficiencies had been addressed.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid.

13)

Order Type and Number:	Consent Order 16-088-RW
Order Date:	September 6, 2016
Individual/Entity:	**Beltway Corporation of South Carolina**
Facility:	Baymont Inn & Suites Columbia Fort Jackson
Location:	240 East Exchange Boulevard Columbia, SC 29634
Mailing Address:	Same
County:	Richland
Previous Orders:	None
Permit/ID Number:	40-428-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Beltway Corporation of South Carolina (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 23, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a handrail was not tight and secure; a ladder was not tight and secure; the pool floor was not clean; the pool walls were not clean; the plaster on the pool floor was delaminated; the deck was not clean or clear of hazards; there was

debris in the skimmer baskets; the water level was too high; the gate did not self-close and latch; the drinking water fountain was not operating properly; the chlorine level was not within the acceptable range of water quality standards; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of three hundred forty dollars **($340.00)**.

14)	Order Type and Number:	Consent Order 16-089-RW
	Order Date:	September 6, 2016
	Individual/Entity:	**M and M Corporation of South Carolina**
	Facility:	Days Inn North Columbia Fort Jackson
	Location:	114 Blythewood Road Blythewood, South Carolina 29016
	Mailing Address:	Same
	County:	Richland
	Previous Orders:	None
	Permit/ID Number:	40-381-1
	Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: M and M Corporation of South Carolina (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a handrail was missing a bolt cover; the gate did not self-close and latch; the drinking water fountain and foot rinse shower were not operating properly; the step edge tile stripe was not within one inch of the edge of the step; the chlorine and pH levels were not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the life ring was deteriorated; the pool rules sign was not legible; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of three hundred forty dollars **($340.00)**.

15)	Order Type and Number:	Consent Order 16-090-RW
	Order Date:	September 6, 2016
	Individual/Entity:	**Shellring Property Owners Association, Inc.**
	Facility:	Shellring
	Location:	110 Salt Meadow Lane St. Thomas Island, SC 29492
	Mailing Address:	Same

County: Charleston
Previous Orders: None
Permit/ID Number: 10-1150B
Violations Cited: S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Shellring Property Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 23, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain; and, on July 6, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain, and for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the chlorine and pH levels were not within the acceptable range of water quality standards; the shepherd's crook was held together with zip ties; the emergency notification device was not operational; the chlorinator was overflowing; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of one thousand twenty dollars **($1,020.00)**. The civil penalty has been paid.

16) Order Type and Number: Consent Order 16-091-RW
Order Date: September 6, 2016
Individual/Entity: **Hilton Head Island Hotel Partners II, LLC**
Facility: Holiday Inn Express Hilton Head Island
Location: 2 Tanglewood Drive
Beaufort, SC 29928
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 07-350-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Hilton Head Island Hotel Partners II, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; the foot rinse shower was not operational; there was no drinking water fountain; the life ring did not have a permanently attached rope; there was no shepherd's crook; the pool rules sign was not completely filled out; only one "Shallow Water – No Diving Allowed" sign was posted; the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording; and, the facility could not produce current valid documentation of pool operator certification. On June 13, 2016, a follow-up inspection was conducted and it was determined that all of the deficiencies had been addressed.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of three hundred forty dollars **($340.00)**.

17) Order Type and Number: Consent Order 16-092-RW
Order Date: September 6, 2016
Individual/Entity: **Atrium TRS I, LP**
Facility: Embassy Suites Columbia
Location: 200 Stoneridge Drive
Columbia, SC 29210
Mailing Address: 12735 Morris Road Ext., Suite 400
Alpharetta, GA 30004
County: Richland
Previous Orders: None
Permit/ID Number: 40-263-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Atrium TRS I, LP (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 20, 2016, and June 20, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pool floor was not clean; the pool furniture was not at least four feet from the pool edge; the deck drains were broken; the water level was too low; a skimmer was missing a weir; the "Shallow Water – No Diving Allowed" signs were not the appropriate size and did not have the appropriate wording; only one of the "No Lifeguard On Duty – Swim At Your Own Risk" signs was posted during the first inspection, and the signs were obstructed by pool furniture during the second inspection; the pool walls were not clean; the gate did not self-close and latch; an inlet plug was not in place on the pool floor; a handrail was missing a bolt cover; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign did not have all of the required rules; and, the current pool operator of record information was not posted to the public.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

18) Order Type and Number: Consent Order 16-093-RW
Order Date: September 6, 2016
Individual/Entity: **Atrium TRS III, LP**
Facility: Embassy Suites Greenville
Location: 670 Verdae Boulevard
Greenville, SC 29607
Mailing Address: 12735 Morris Road Ext., Suite 400
Alpharetta, GA 30004
County: Greenville

Previous Orders: None
Permit/ID Number: 23-376-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Atrium TRS III, LP (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On February 11, 2016, May 20, 2016, and June 17, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the life ring did not have a permanently attached rope; the chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit and the levels were not being logged weekly; and, the "No Lifeguard On Duty – Swim At Your Own Risk" signs posted did not have the correct wording.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of two thousand forty dollars **($2,040.00)**.

19) Order Type and Number: Consent Order 16-094-RW
Order Date: September 6, 2016
Individual/Entity: **Battery Point Homeowners Association, Inc.**
Facility: Battery Point
Location: Old Salem Road
Beaufort, SC 29901
Mailing Address: 3 Bostick Circle
Beaufort, SC 29902
County: Beaufort
Previous Orders: 14-208-DW ($800.00)
Permit/ID Number: 07-506-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Battery Point Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 2016, and July 7, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pool floor was not clean; there was algae on the walls and floor of the pool; a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; the facility could not produce current valid documentation of pool operator certification; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of one thousand, one hundred twenty dollars **($1,120.00)**.

20) Order Type and Number: Consent Order 16-095-RW
Order Date: September 7, 2016

Individual/Entity:	**Hilton Head Hotel Investments, LP**
Facility:	Sleep Inn Beaufort
Location:	2523 Boundary Street Beaufort, SC 29906
Mailing Address:	Same
County:	Beaufort
Previous Orders:	None
Permit/ID Number:	07-551-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Hilton Head Hotel Investments, LP (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 1, 2016, and July 8, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; a handrail was not tight and secure; and, the facility could not produce current valid documentation of pool operator certification.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

21)

Order Type and Number:	Consent Order 16-096-RW
Order Date:	September 12, 2016
Individual/Entity:	**Pracha, LLC**
Facility:	Crossroads Inn and Suites
Location:	2376 Highway 501 East Conway, SC 29526
Mailing Address:	Same
County:	Horry
Previous Orders:	None
Permit/ID Number:	26-875-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Pracha, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 6, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: there was no lifeline; a ladder did not have bumpers; the gate did not self-close and latch; there was no drinking water fountain, foot rinse shower or shepherd's crook; the emergency notification device was not operating properly; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; only one "Shallow Water – No Diving Allowed" sign was posted; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the current pool operator of record information was not posted; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of three hundred forty dollars **($340.00)**. The civil penalty has been paid. On July 7, 2016, a follow-up inspection was conducted and it was determined that all of the deficiencies had been corrected.

22) Order Type and Number: Consent Order 16-097-RW
Order Date: September 8, 2016
Individual/Entity: **Paramount Hotels, LLC**
Facility: Hampton Inn Newberry
Location: 1201 Nance Street
Newberry, SC 29108
Mailing Address: P.O. Box 949
Blythewood, SC 29016
County: Newberry
Previous Orders: None
Permit/ID Number: 36-1001B
Violations Cited: S.C. Code Ann. Regs. 61-51(J) & 61-51(I)

Summary: Paramount Hotels, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 21, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain, and for failure to submit to the Department for approval a Swimming Pool Change Order Request Form prior to modifying the pool. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: depth marker tiles were cracked; a ladder was not tight and secure; the pool floor was not clean; the pool furniture was not at least four feet from the pool edge; the deck drains were broken; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring was deteriorated; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; the bound and numbered log book was not maintained on a daily basis; and, a Swimming Pool Change Order Request Form was not submitted to the Department for approval prior to modifying the pool.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of five hundred ten dollars **($510.00)**. The Individual/Entity submitted a Swimming Pool Change Order Request Form and it has been approved by the Department.

23) Order Type and Number: Consent Order 16-098-RW
Order Date: September 12, 2016
Individual/Entity: **Queens Grant Regime, II, Inc.**
Facility: Queens Grant II
Location: 21 Executive Park Road
Hilton Head Island, SC 29928
Mailing Address: Same

County: Beaufort
Previous Orders: None
Permit/ID Number: 07-065-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Queens Grant Regime, II, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2016, and July 12, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline was not attached to the pool wall on the first inspection and the lifeline floats were damaged on the second inspection; a skimmer was missing a weir; the pH level was not within the acceptable range of water quality standards; the pool rules sign was not legible; the facility could not produce current valid documentation of pool operator certification; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

24) Order Type and Number: Consent Order 16-099-RW
Order Date: September 12, 2016
Individual/Entity: **Two Bridges Valley Creek, LLC**
Facility: Valley Creek Apartments
Location: 9085 Fairforest Road
Spartanburg, SC 29303
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit/ID Number: 42-049-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Two Bridges Valley Creek, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 23, 2016, and July 8, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pH level was not within the acceptable range of water quality standards; the emergency notification device was not operational; the bound and numbered log book was not maintained on a daily basis; and, the life ring was not United States Coast Guard approved.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

25) Order Type and Number: Consent Order 16-100-RW
Order Date: September 12, 2016
Individual/Entity: **Lakeside Country Club**

Facility:	Lakeside Country Club
Location:	1 Country Club Drive Laurens, SC 29360
Mailing Address:	Same
County:	Laurens
Previous Orders:	None
Permit/ID Number:	30-036-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Lakeside Country Club (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 13, 2016, and July 15, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was not tight and secure; the drinking water fountain was not operating properly; the chlorine level was not within the acceptable range of water quality standards; the shepherd's crook was not permanently attached to the handle and was missing a bolt; the emergency notification device was not accessible; the pump room was not accessible; the skimmer lids were cracked; the gate did not self-close and latch; and, one of the "Shallow Water – No Diving Allowed" signs was damaged.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

26)

Order Type and Number:	Consent Order 16-101-RW
Order Date:	September 12, 2016
Individual/Entity:	**Isle of Palms Beach Club Villas Owners Association, Inc.**
Facility:	Beach Club Villas #2
Location:	Beach Club Villas Court Isle of Palms, SC 29451
Mailing Address:	Same
County:	Charleston
Previous Orders:	None
Permit/ID Number:	10-192-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Isle of Palms Beach Club Villas Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 25, 2016, and July 8, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was not tight and secure and was missing bumpers; the skimmers were missing weirs; the gate did not self-close and latch; the shepherd's crook was not clear of obstructions; the emergency notification device was not operational; the pH level was not within the acceptable range of water quality standards; and, the life ring was deteriorated.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

27) Order Type and Number: Consent Order 16-102-RW
Order Date: September 12, 2016
Individual/Entity: **Braxton E. Lewis, Individually and d.b.a. Pelican Cay**
Facility: Pelican Cay
Location: 200 6th Avenue South
North Myrtle Beach, SC 29582
Mailing Address: P.O. Box 298
North Myrtle Beach, SC 29597
County: Horry
Previous Orders: None
Permit/ID Number: 26-K30-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Braxton E. Lewis, Individually and d.b.a. Pelican Cay (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 2, 2016, and June 28, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: there was debris in the skimmer baskets; the pool walls were not clean; there was no drinking water fountain; the chlorine and pH levels were not within the acceptable range of water quality standards; the shepherd's crook was missing a bolt; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid.

28) Order Type and Number: Consent Order 16-103-RW
Order Date: September 13, 2016
Individual/Entity: **Rivendell Homeowner's Association, Inc.**
Facility: Rivendell
Location: 103 Shire Drive
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit/ID Number: 04-1018B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Rivendell Homeowner's Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 8, 2016, and July 19, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a handrail was not tight and secure; there was debris in the skimmer baskets; the pH level was not within the acceptable range of water quality standards; the facility could not produce current valid documentation of pool operator certification; the log book was not properly bound and was not maintained on a daily basis; and, only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

29) Order Type and Number: Consent Order 16-104-RW
Order Date: September 15, 2016
Individual/Entity: **Quinine Hill Homeowners Association, Inc.**
Facility: Quinine Hill
Location: 7 Quinine Hill
Columbia, SC 29204
Mailing Address: Same
County: Richland
Previous Orders: None
Permit/ID Number: 40-146-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Quinine Hill Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On July 13, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain; and, on July 13, 2016, a follow-up inspection was conducted, and a violation was issued for failure to properly operate and maintain and for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a handrail was not tight and secure; the gate did not self-close and latch; there was no drinking water fountain; the chlorine and pH levels were not within the acceptable range of water quality standards; the emergency notification device was not operational; the bound and numbered log book was not maintained on a daily basis; a ladder was not tight and secure; the pool walls were dirty; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of one thousand twenty dollars **($1,020.00)**.

30) Order Type and Number: Consent Order 16-105-RW

Order Date: September 15, 2016
Individual/Entity: **Queens Grant Villas Horizontal Property Regime V, Individually and d.b.a. Queens Grant V**
Facility: Queens Grant V
Location: 21 Executive Park Road
Hilton Head Island, SC 29928
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 07-062-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Queens Grant Villas Horizontal Property Regime V, Individually and d.b.a. Queens Grant V (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2016, and July 12, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; a skimmer was missing a weir; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the facility could not produce current valid documentation of pool operator certification.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

31) Order Type and Number: Consent Order 16-106-RW
Order Date: September 15, 2016
Individual/Entity: **Pine Island I Homeowners Association and Pine Island II Homeowners Association**
Facility: Pine Island Homes
Location: 17 Pine Island Court
Hilton Head Island, SC 29928
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 07-178-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Pine Island I Homeowners Association and Pine Island II Homeowners Association (Individual/Entity) own and are responsible for the proper operation and maintenance of a pool. On June 8, 2016, and July 13, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were cracked; a skimmer was missing a weir; the gate did not self-close and latch; the chlorine level was not within the acceptable range of

water quality standards; and, the facility could not produce current valid documentation of pool operator certification.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

32) Order Type and Number: Consent Order 16-107-RW
Order Date: September 19, 2016
Individual/Entity: **The Groves Homes Association**
Facility: The Groves Townhomes
Location: Cactus Road
Columbia, SC 29202
Mailing Address: P.O. Box 2014
Lexington, SC 29071
County: Richland
Previous Orders: None
Permit/ID Number: 40-046-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: The Groves Homes Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 3, 2016, and July 8, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was not tight and secure; the bathrooms were not clean and did not have soap; the pool floor was discolored; there was dirt and oil on the waterline tiles; the water level was too high; there was no drinking water fountain; the chlorine level was not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the pool rules sign was cracked; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted on the first inspection, and one of the signs posted on the second inspection was cracked; the bound and numbered log book was not available for review; and, the pump room was not accessible.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

33) Order Type and Number: Consent Order 16-108-RW
Order Date: September 19, 2016
Individual/Entity: **Hampton Oaks Apartments, LLC**
Facility: Hampton Oaks Apartments
Location: 6600 Rivers Avenue
North Charleston, SC 29406
Mailing Address: Same
County: Charleston

Previous Orders: None
Permit/ID Number: 08-005-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Hampton Oaks Apartments, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 30, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; a handrail and ladder were not tight and secure; a ladder was missing bumpers; there was no foot rinse shower; the pH level was not within the acceptable range of water quality standards; the life ring was deteriorated; the facility could not produce current valid documentation of pool operator certification; the bound and numbered log book was not available for review; and, the pump room was not accessible.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of three hundred forty dollars **($340.00)**.

34) Order Type and Number: Consent Order 16-109-RW
Order Date: September 19, 2016
Individual/Entity: **Bees Ferry-FCA, LLC**
Facility: Bees Ferry Apartments
Location: 2020 Proximity Drive
Charleston, SC 29414
Mailing Address: 201 South Trion Street, Suite 900
Charlotte, NC 28202
County: Charleston
Previous Orders: None
Permit/ID Number: 10-1216B
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Bees Ferry-FCA, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 25, 2016, and July 7, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; the foot rinse shower was not operating; the chlorine and pH levels were not within the acceptable range of water quality standards; the emergency notification device was not operating; the pool rules sign did not have all of the required rules; and, the current pool operator of record information was not posted to the public.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

35) Order Type and Number: Consent Order 16-110-RW
Order Date: September 19, 2016

Individual/Entity:	**Nicobar, LTD**
Facility:	Beachwalk Motel
Location:	1701 South Ocean Boulevard Myrtle Beach, SC 29577
Mailing Address:	Same
County:	Horry
Previous Orders:	13-104-DW ($680.00)
Permit/ID Number:	26-368-1 & 26-368-2
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Nicobar, LTD (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool and a kiddie pool. On May 31, 2016, the pool and kiddie pool were inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pool and kiddie pool floor were not clean; the water level was too low; the gate did not self-close and latch; there was no drinking water fountain or foot rinse shower; the pH level was not within the acceptable range of water quality standards; the pool rules sign was missing; the facility could not produce current valid documentation of pool operator certification; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of eight hundred forty dollars **($840.00)**.

36)

Order Type and Number:	Consent Order 16-111-RW
Order Date:	September 20, 2016
Individual/Entity:	**Oxford-Columbia 25, LLC**
Facility:	Courtyard by Marriott
Location:	111 Gateway Corporate Blvd Columbia, SC 29203
Mailing Address:	Same
County:	Richland
Previous Orders:	None
Permit/ID Number:	40-383-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Oxford-Columbia 25, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 6, 2016, and July 14, 2016, the spa was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: there was no foot rinse shower; the chlorine and pH levels were not within the acceptable range of water quality standards; the current pool operator of record information was not posted to the public; the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record; and, the pool rules sign was not completely filled out.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

37) Order Type and Number: Consent Order 16-112-RW
Order Date: September 20, 2016
Individual/Entity: **Monument St. Andrew's, LLC**
Facility: St. Andrews Apartments
Location: 601 St. Andrews Road
Columbia, SC 29210
Mailing Address: 5200 Blue Lagoon Drive, Suite 400
Miami, FL 33126
County: Lexington
Previous Orders: None
Permit/ID Number: 32-064-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Monument St. Andrew's, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; a ladder was not tight and secure; the depth marker tiles at the waterline were broken; there was dirt and oil on the waterline tiles; there were cracks on the pool deck; the gate did not self-close and latch; the drinking water fountain was not within fifty feet of the pool; there was no foot rinse shower; the chlorine level was not within the acceptable range of water quality standards; the main drain grates were not visible because the water was too cloudy; the life ring rope was not permanently attached to the life ring; the shepherd's crook was not properly mounted in its designated location; and, the bound and numbered log book was not maintained on a daily basis, and was not maintained a minimum of three times per week by the pool operator of record.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of three hundred forty dollars **($340.00)**.

38) Order Type and Number: Consent Order 16-113-RW
Order Date: September 20, 2016
Individual/Entity: **The Shorewood Common Property Owners Association, Inc.**
Facility: Shorewood Villas
Location: 21 Forest Beach Drive
Hilton Head Island, SC 29928
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 07-1172C
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: The Shorewood Common Property Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 27, 2016, and July 6, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; and, the facility could not produce current valid documentation of pool operator certification.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

39)	Order Type and Number:	Consent Order 16-114-RW
	Order Date:	September 20, 2016
	Individual/Entity:	**Wappoo Creek Place Owners Association**
	Facility:	Wappoo Creek Place
	Location:	40 Wappoo Creek Place Charleston, SC 29412
	Mailing Address:	Same
	County:	Charleston
	Previous Orders:	None
	Permit/ID Number:	10-200-1
	Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Wappoo Creek Place Owners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 2, 2016, and July 11, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the bathrooms did not have soap; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring did not have a permanently attached rope; there was only one "Shallow Water – No Diving Allowed" sign; the lifeline with floats was not attached to the pool wall; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

40)	Order Type and Number:	Consent Order 16-115-RW
	Order Date:	September 20, 2016
	Individual/Entity:	**Beaufort Lodging, LLC**
	Facility:	Hampton Inn Beaufort
	Location:	2342 Boundary Street Beaufort, SC 29902

Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 07-502-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Beaufort Lodging, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 2016, and July 8, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the drinking water fountain and the foot rinse shower were not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; the facility could not produce current valid documentation of pool operator certification; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid.

41) Order Type and Number: Consent Order 16-116-RW
Order Date: September 20, 2016
Individual/Entity: **Tilghman Forest Homeowners Association**
Facility: Tilghman Forest
Location: 1020 Tilghman Forest Drive
North Myrtle Beach, SC 29582
Mailing Address: 1114 Swan Lake Drive
North Myrtle Beach, SC 29582
County: Horry
Previous Orders: None
Permit/ID Number: 26-L06-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Tilghman Forest Homeowners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 10, 2016, and June 30, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pH level was not within the acceptable range of water quality standards; there was no pool rules sign posted; only one “No Lifeguard On Duty – Swim At Your Own Risk” sign was posted; and, the current pool operator of record information was not posted to the public.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

42) Order Type and Number: Consent Order 16-117-RW
Order Date: September 21, 2016
Individual/Entity: **Bodyshop Athletics, Inc.**
Facility: Top Spin Tennis Club
Location: 5347 B Sunset Boulevard
Lexington, SC 29072
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit/ID Number: 32-142-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Bodyshop Athletics, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 25, 2016, and July 18, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; the life ring did not have a permanently attached rope; the shepherd's crook was missing a bolt and was not permanently attached to the handle; the bound and numbered log book was not available for review on the first inspection, and was not maintained a minimum of three times per week by the pool operator of record on the second inspection; the chlorine level was not within the acceptable range of water quality standards; and, only one "No Lifeguard On Duty - Swim At Your Own Risk" sign was posted.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The civil penalty has been paid. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

43) Order Type and Number: Consent Order 16-118-RW
Order Date: September 26, 2016
Individual/Entity: **The Pier at Clemson, LLC**
Facility: The Pier Apartments
Location: 440 Edinburgh Way
Seneca, SC 29678
Mailing Address: 918 Queens Park Loop
Seneca, SC 29678
County: Oconee
Previous Orders: None
Permit/ID Number: 37-1019D
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: The Pier at Clemson, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On July 7, 2016, and August 8, 2016, the spa was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the gate did not self-close and latch; a section

of the perimeter fencing had openings greater than four inches; the drinking water fountain was not operating properly; the foot rinse shower was not operating properly; the chlorine and pH levels were not within the acceptable range of water quality standards; the emergency notification device was not operating; the spa rules sign was not completely filled out; and, the "No Lifeguard On Duty – Swim At Your Own Risk" signs did not have the correct wording and the lettering was not the appropriate size.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

44)

Order Type and Number:	Consent Order 16-119-RW
Order Date:	September 26, 2016
Individual/Entity:	**Seaside Inn Owners Association, Inc.**
Facility:	Seaside Inn
Location:	1004 Ocean Boulevard Isle of Palms, SC 29451
Mailing Address:	Same
County:	Charleston
Previous Orders:	None
Permit/ID Number:	10-1126B
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Seaside Inn Owners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 27, 2016, and July 11, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the plaster on the pool floor was delaminated; a skimmer was missing a weir; the deck was not clean and clear of hazards; there was no drinking water fountain; and, the chlorine level was not within the acceptable range of water quality standards.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

45)

Order Type and Number:	Consent Order 16-120-RW
Order Date:	September 27, 2016
Individual/Entity:	**Myrbeach Mortgage, LLC**
Facility:	Days Inn
Location:	3650 Waccamaw Boulevard Myrtle Beach, SC 29579
Mailing Address:	Same
County:	Horry
Previous Orders:	13-068-DW ($400.00)

	15-043-RW ($1,360.00)
Permit/ID Number:	26-A67-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Myrbeach Mortgage, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On June 14, 2016, the spa was inspected and a violation was issued for failure to properly operate and maintain. The Individual//Entity has violated the Public Swimming Pools Regulation as follows: the foot rinse shower was not operating properly; the chlorine level was not within the acceptable range of water quality standards; and, the cyanuric acid level was above the water quality standards acceptable limit.

Action: The Individual//Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and pay a civil penalty in the amount of one thousand, three hundred sixty dollars **($1,360.00)**. The civil penalty has been paid.

46)

Order Type and Number:	Consent Order 16-121-RW
Order Date:	September 27, 2016
Individual/Entity:	**Wave Rider Resort Homeowners Association, Inc.**
Facility:	Wave Rider Motel
Location:	1600 South Ocean Boulevard North Myrtle Beach, SC 29577
Mailing Address:	Same
County:	Horry
Previous Orders:	None
Permit/ID Number:	26-243-1 & 26-545-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Wave Rider Resort Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of two pools. On May 25, 2016, and July 19, 2016, the pools were inspected and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: some of the tiles on the pool wall were missing; there was no drinking water fountain; there was no life ring; the pool rules sign was not completely filled out; one of the "Shallow Water – No Diving Allowed" signs was deteriorated; the current pool operator of record information was not posted to the public; the main drain grates were not in place; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of one thousand, three hundred sixty dollars **($1,360.00)**. The Individual/Entity submitted a corrective action plan and corrected the deficiencies.

47)

Order Type and Number:	Consent Order 16-122-RW

Order Date:	September 27, 2016
Individual/Entity:	**Lakeview at Surfside Beach Homeowners Association, Inc.**
Facility:	Lakeview at Surfside Beach
Location:	517 Lake Shore Surfside Beach, SC 29575
Mailing Address:	P.O. Box 14176 Surfside Beach, SC 29575
County:	Horry
Previous Orders:	None
Permit/ID Number:	26-1387B
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: Lakeview at Surfside Beach Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On May 31, 2016, July 1, 2016, and July 25, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine level was not within the acceptable range of water quality standards; the emergency notification device was not operating properly; the pool rules sign was not completely filled out; the cyanuric acid level was above the water quality standards acceptable limit; the current pool operator of record information was not posted to the public; the water level was too low; and, the facility address was not posted at the emergency notification device.

Action: The Individual/Entity is required to: submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of two thousand, forty dollars **($2,040.00)**.

48)

Order Type and Number:	Consent Order 16-123-RW
Order Date:	September 27, 2016
Individual/Entity:	**J & M Hospitality, Inc.**
Facility:	Super 8
Location:	1591 Highway 17 North North Myrtle Beach, SC 29582
Mailing Address:	Same
County:	Horry
Previous Orders:	None
Permit/ID Number:	26-L26-1
Violations Cited:	S.C. Code Ann. Regs. 61-51(J)

Summary: J & M Hospitality, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool. On June 7, 2016, and July 6, 2016, the pool was inspected and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards; and, the emergency notification device was not operational.

Action: The Individual/Entity is required to: keep the pool closed until the deficiencies have been corrected; submit a corrective action plan and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of six hundred eighty dollars **($680.00)**.

Drinking Water Enforcement

49) Order Type and Number: Consent Order 16-046-DW
Order Date: September 13, 2016
Individual/Entity: **Caroline Investments, LLC**
Facility: Caroline Inn and Suites
Location: 810 Hospitality Drive
Spartanburg, SC 29303
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit/ID Number: SC42136874
Violations Cited: S.C. Code Ann. Regs. 61-58.4.D(14)

Summary: Caroline Investments, LLC (Individual/Entity) owns the Caroline Inn and Suites (Site). On April 22, 2016, Department staff conducted an inspection at the Site and discovered that an irrigation well was connected to the piping within the building to supply water to the toilets and outside faucets. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: it installed a high hazard connection between a public water system distribution system and an irrigation well whereby unsafe water or other contamination materials may be discharged or drawn into the system.

Action: The Individual/Entity is required to: remove all distribution lines installed that connect the irrigation well to the building; submit a written request of the intended use of the irrigation well; and, pay a civil penalty in the amount of four thousand dollars **($4,000.00)**.

50) Order Type and Number: Consent Order 16-047-DW
Order Date: September 16, 2016
Individual/Entity: **Lake Pointe Self Storage, LLC**
Facility: The Vault Self Storage
Location: 4180 Charlotte Highway
Lake Wylie, SC 29710
Mailing Address: 1201-101 Carolina Place Drive
Fort Mill, SC 29708
County: York
Previous Orders: None
Permit/ID Number: 30786-WS
Violations Cited: S.C. Code Ann. Regs. 61-58.1.K(1)

Summary: Lake Pointe Self Storage, LLC (Individual/Entity) owns and is responsible for the proper construction, and operation of a public water system in accordance with Water Supply Construction Permit No. 30786-WS to serve The Vault Self Storage (Site). On May 26, 2016, the Site was inspected and it was determined that the public water system had been placed into operation prior to obtaining written approval to operate from the Department. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: failure to obtain written approval to operate from the Department prior to placing a public water system into operation.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars (**$1,000.00**). On August 29, 2016, the Department issued final approval to place the public water system into operation.

51) Order Type and Number: Consent Order 16-048-DW
Order Date: September 21, 2016
Individual/Entity: **R&R Deer Processing, Inc.**
Facility: R&R Venison Specialties
Location: 3965 State Road
Ridgeville, SC 29472
Mailing Address: Same
County: Berkeley
Previous Orders: None
Permit/ID Number: 0830810
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)

Summary: R&R Deer Processing, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On August 17, 2016, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: the PWS exceeded the maximum contaminant level (MCL) for E. coli.

Action: The Individual/Entity is required to: submit an investigative report to determine the causes of the MCL violation and a corrective action plan to include proposed steps to address those causes; and, pay a **stipulated penalty** in the amount of four thousand dollars **($4,000.00)** should any requirement of the Order not be met.

52) Order Type and Number: Consent Order 16-049-DW
Order Date: September 23, 2016
Individual/Entity: **Carolina Water Service, Inc.**
Facility: CWS Rollingwood
Location: 150 Foster Brothers Drive
West Columbia, SC 29171
Mailing Address: Same
County: Lexington
Previous Orders: None

Permit/ID Number: 3250052
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: Carolina Water Service, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On June 29, 2016, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: the PWS exceeded the maximum contaminant level (MCL) for haloacetic acids five (HAA5).

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

53) Order Type and Number: Consent Order 16-050-DW
Order Date: September 23, 2016
Individual/Entity: **Carolina Water Service, Inc.**
Facility: CWS I-20
Location: 150 Foster Brothers Drive
West Columbia, SC 29171
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit/ID Number: 3250012
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: Carolina Water Service, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On June 29, 2016, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: the PWS exceeded the maximum contaminant level (MCL) for haloacetic acids five (HAA5).

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

54) Order Type and Number: Consent Order 16-051-DW
Order Date: September 23, 2016
Individual/Entity: **Carolina Water Service, Inc.**
Facility: Charleswood Subdivision
Location: 101 Charleswood Drive
Columbia, SC 29223
Mailing Address: 150 Foster Brothers Drive
West Columbia, SC 29172
County: Richland

Previous Orders: None
Permit/ID Number: 4050008
Violations Cited: S.C. Code Ann. Regs. 61-58.5.H(2)

Summary: Carolina Water Service, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On July 27, 2016, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulations as follows: the PWS exceeded the maximum contaminant level (MCL) for combined radium 226/228.

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

Water Pollution Enforcement

55) Order Type and Number: Consent Order 16-027-W
Order Date: September 8, 2016
Individual/Entity: **Carolina Development Services, LLC**
Facility: Fox Ridge Phase III
Location: Three quarters of a mile south of the Intersection of SC Highway 60 and Possum Hollow Road
Mailing Address: 2649 Breckenridge Road, Suite 107
Monroe, NC 28110
County: Lancaster
Previous Orders: None
Permit/ID Number: SCR10U376
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-90(A)(1)(Supp. 2015), Water Pollution Control Permits S.C. Code Ann. Regs. 61-9.122.41(a) and (e) (Supp. 2011), Water Classifications and Standards S.C. Code Ann. Regs. 61-68(E)(5)(d)(Supp. 2015).

Summary: Carolina Development Services, LLC (Individual/Entity) owns and is responsible for land disturbing activity located in Lancaster County, South Carolina. On July 23, 2015, November 17, 2015, and January 27, 2016, the Department forwarded inspection reports to the Individual/Entity, notifying of deficiencies and unsatisfactory conditions at the Site. The Individual/Entity has violated the Pollution Control Act, Water Classification and Standards Regulations, and Water Pollution Control Permits Regulation as follows: failed to comply with the conditions of its National Pollutant Discharge Elimination System (NPDES) permit, discharged sediment into the environment, including waters of the State, in a manner other than in compliance with its permit, and failed to keep waters of the State free from sediment that interferes with classified and/or existing water uses, or which is harmful to aquatic life.

Action: The Individual/Entity is required to: correct the deficiencies and bring the Site into compliance with the conditions and requirements of its NPDES permit and the approved Storm Water Pollution Prevention Plan (SWPPP); submit engineer certification that all storm water and sediment control devices are installed and functioning properly; and, pay a civil penalty in the amount sixty-nine thousand, seven hundred dollars (**$69,700.00**) in five (5) monthly installments.

56) Order Type and Number: Consent Order 16-028-W
Order Date: September 8, 2016
Individual/Entity: **Fontaine Construction of Anderson**
Facility: McAlister Mine
Location: 288 Westinghouse Road
Pendleton, SC 29670
Mailing Address: 7007 Highway 29 N
Pelzer, SC 29669
County: Anderson
Previous Orders: None
Permit/ID Number: SCG731245
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-90(A)(1) and 110(d)(Supp. 2015), Water Pollution Control Permits S.C. Code Ann. Regs. 24 S.C. Code Ann. Regs. 61-9.122.41(a) and (e) (2011).

Summary: Fontaine Construction of Anderson (Individual/Entity) owns and is responsible for the proper operation and maintenance of the McAlister Mine, located in Anderson County, South Carolina. On October 23, 2015, and April 20, 2016, the Department forwarded inspection reports to the Individual/Entity, notifying of deficiencies and unsatisfactory conditions at the Site. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the conditions of its National Pollutant Discharge Elimination System (NPDES) permit and allowed sediment to discharge into the environment, including waters of the state, in a manner other than in compliance with a permit issued by the Department.

Action: The Individual/Entity is required to: correct the deficiencies and bring the Site into compliance with the conditions and requirements of the NPDES permit; conduct weekly inspections of the Site by a Certified Erosion Prevention and Sediment Control Inspector; submit the weekly inspection reports to the Department; submit a Storm Water Pollution Prevention Plan prepared by a South Carolina Registered Professional Engineer, to include storm water, erosion and sediment controls, and best management practices to be implemented and maintained at the Site until reclamation of the Site is complete and approved by the Department; submit engineer certification that all storm water and sediment control devices are installed and functioning properly; and, pay a civil penalty in the amount fifteen thousand, seven hundred dollars **($15,700.00)** in three (3) monthly installments.

57) Order Type and Number: Consent Order 16-029-W
Order Date: September 13, 2016

Individual/Entity: **Chemtrade Performance Chemicals US, LLC**
Facility: Chemtrade Performance Chemicals WWTP
Location: 3507 Leeds Rd
Carlisle, SC 29031
Mailing Address: 3507 Leeds Rd
Carlisle, SC 29031
County: Kershaw
Previous Orders: None
Permit/ID Number: SC0022756
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2015); Water Pollution Control Permits, 3 S.C. Code Ann. Regs. 61-9.122.41(a) and (l)(4)(Supp. 2015).

Summary: Chemtrade Performance Chemicals US, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment plant (WWTP) located in Chester County, South Carolina. On July 14, 2016, a Notice of Violation was issued as a result of discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the monitoring requirements for Acute Toxicity in its National Pollutant Discharge Elimination permit.

Action: The Individual/Entity is required to: submit a corrective action plan to address the deficiencies; and, pay a civil penalty in the amount of two thousand, eight hundred twenty-five dollars **($2,825.00)**.

58) Order Type and Number: Consent Order 16-030-W
Order Date: September 21, 2016
Individual/Entity: **Saluda County Water & Sewer Authority**
Facility: Celebrations Church Fellowship
Location: 106 N. Jennings St.
Saluda, SC 29138
Mailing Address: 113 E. Church St.
Saluda, SC 29138
County: Saluda
Previous Orders: None
Permit/ID Number: Construction Permit #38795-WW
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110(a)(3) (Supp. 2015), Standards for Wastewater Facility Construction, 24 S.C. Code Ann. Regs. 61-67.100(E)(7) (Supp. 2015).

Summary: Saluda County Water & Sewer Authority (Individual/Entity) owns and is responsible for construction of a wastewater system. On May 12, 2015, and July 21, 2016, Notices of Violation were issued as a result of the Individual/Entity installing and operating a wastewater system without a Final Approval to Operate issued by the Department. The Individual/Entity has violated the Pollution Control

Act and Standards for Wastewater Facility Construction Regulation as follows: failed to obtain approval prior to placing a wastewater system into operation.

Action: The Individual/Entity is required to: submit a corrective action plan to address the deficiencies and prevent recurrence of similar violations; and, pay a civil penalty in the amount of one thousand dollars **($1,000.00)**.

59) Order Type and Number: Consent Order 16-031-W
Order Date: September 23, 2016
Individual/Entity: **Dorchester County Water & Sewer**
Facility: Lower Dorchester Wastewater Treatment Plant
Location: 201 Johnston St.
Saint George, SC 29477
Mailing Address: 235 Deming Way
Summerville, SC 29483
County: Dorchester
Previous Orders: None
Permit/ID Number: SC0038822
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (Supp. 2015), Water Pollution Control Permits, 3 S.C. Code Ann. Regs. 61-9.122.41 (2011), and National Pollutant Discharge Elimination System Permit Number SC0028822.

Summary: Dorchester County Water & Sewer (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Lower Dorchester Wastewater Treatment Plant in Dorchester County, South Carolina. On June 9, 2016, a Notice of Violation was issued as a result of discharge monitoring reports received by the Department. The Individual/Entity has violated the Pollution Control Act, Water Pollution Control Permits Regulation and National Pollutant Discharge Elimination System (NPDES) Permit SC0038822 as follows: failed to comply with effluent discharge limits of its NPDES permit for NH3-N and E. coli.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) and schedule of implementation to address the deficiencies; and, pay a civil penalty in the amount of four thousand, eight hundred dollars **($4,800.00)**.

60) Order Type and Number: Consent Order 16-032-W
Order Date: September 30, 2016
Individual/Entity: **Seabrook Island Utility Commission**
Facility: Town of Seabrook WWTP
Location: Off River Road on Johns Island
Seabrook Island, SC 29455
Mailing Address: 2902A Seabrook Island Rd
Johns Island, SC 29455
County: Charleston
Previous Orders: None
Permit/ID Number: ND0063347

Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (Supp. 2015), Water Pollution Control Permits, 3 S.C. Code Ann. Regs. 61-9.122.41 (a) (2011), and Land Application Permit ND0063347.

Summary: Seabrook Island Utility Commission (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Town of Seabrook Wastewater Treatment Plant in Charleston County, South Carolina. On May 2, 2016, a Notice of Violation was issued as a result of discharge monitoring reports received by the Department. The Individual/Entity has violated the Pollution Control Act, Water Pollution Control Permits Regulation and State Land Application Permit ND0063347 (ND Permit) as follows: failed to comply with effluent discharge limits of its ND Permit for Fecal Coliform.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) to address the deficiencies; and, pay a civil penalty in the amount of three thousand, three hundred and sixty dollars **($3,360.00)**.

61) Order Type and Number: Consent Order 16-033-W
Order Date: September 30, 2016
Individual/Entity: **Mark III Properties**
Facility: Rainwater Subdivision
Location: Site off of Highway 290
Duncan, SC
Mailing Address: 726 Camelot Drive, Ste A
Spartanburg, SC 29301
County: Spartanburg
Previous Orders: None
Permit/ID Number: SCR10V222
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-90(A)(1) and 110(d)(Supp. 2015), Water Pollution Control Permits S.C. Code Ann. Regs. 24 S.C. Code Ann. Regs. 61-9.122.21(a) and 122.41 (a) (2011).

Summary: Mark III Properties (Individual/Entity) is responsible for land disturbing activity in Spartanburg County, South Carolina. On March 16, 2016, and April 20, 2016, the Department forwarded inspection reports to the Individual/Entity, notifying of deficiencies and unsatisfactory conditions at the Site. The Individual/Entity has violated the Pollution Control Act and the Water Pollution Control Permits Regulation as follows: failed to comply with the conditions of its National Pollutant Discharge Elimination System (NPDES) permit and allowed sediment to discharge into the environment, including waters of the state, in a manner other than in compliance with a permit issued by the Department.

Action: The Individual/Entity is required to: submit engineer certification that all storm water and sediment control devices are installed and functioning properly; properly monitor and maintain all sediment control devices until completion of development at the Site; and, pay a civil penalty in the amount of six thousand, four hundred and sixty dollars **($6,460.00)**.

BUREAU OF ENVIRONMENTAL HEALTH SERVICES

62) Order Type and Number: Consent Order 2016-206-08-017
Order Date: September 6, 2016
Individual/Entity: **China Kitchen**
Facility: China Kitchen
Location: 386-D Mark Cummings Rd, Ste. 104
Hardeeville, SC 29927
Mailing Address: Same
County: Jasper
Previous Orders: None
Permit Number: 27-206-00555
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Kitchen (Individual/Entity) is a restaurant located in Hardeeville, South Carolina. The Department conducted inspections on February 26, 2015, March 28, 2016, April 7, 2016, April 18, 2016, and April 28, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to store foods in a manner to prevent cross contamination; failed to store foods and clean utensils in a clean, dry location, at least 6 inches off the floor; and failed to ensure equipment is sealed to adjoining equipment or walls when exposed to spillage or seepage.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, five hundred dollars **($1,500.00)**.

63) Order Type and Number: Consent Order 2016-206-03-032
Order Date: September 9, 2016
Individual/Entity: **Sporting News Grill**
Facility: Sporting News Grill
Location: 110 McSwain Drive
West Columbia, SC 29169
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-05707
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Sporting News Grill (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on March 25, 2015, March 10, 2016, and March 18, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to store foods in a manner to prevent cross contamination.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, two hundred dollars **($1,200.00)**.

64) Order Type and Number: Consent Order 2015-206-03-094
Order Date: September 9, 2016
Individual/Entity: **China Taste**
Facility: China Taste
Location: 1132 Mack Street
Gaston, SC 29053
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-04239
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Taste (Individual/Entity) operates a restaurant located in Gaston, South Carolina. The Department conducted inspections on June 25, 2015, June 30, 2015, and June 6, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, two hundred dollars **($1,200.00)**.

65) Order Type and Number: Consent Order 2016-206-03-027
Order Date: September 9, 2016
Individual/Entity: **Bob Evans #100**
Facility: Bob Evans #100
Location: 520 John Ross Parkway
Rock Hill, SC 29703
Mailing Address: 8111 Smith Mill Road
New Albany, OH 43054
County: York
Previous Orders: None
Permit Number: 46-206-01645
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bob Evans Farms #100 (Individual/Entity) is a restaurant located in Rock Hill, South Carolina. The Department conducted inspections on April 13, 2016, and July 28, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

66) Order Type and Number: Consent Order 2016-206-03-021
Order Date: September 9, 2016
Individual/Entity: **Hamm's Hawg Heaven**
Facility: Hamm's Hawg Heaven
Location: 11375 CR Koon Highway
Prosperity, SC 29127
Mailing Address: P.O. Box 919
Prosperity, SC 29127
County: Newberry
Previous Orders: 2015-206-03-055 ($800.00)
Permit Number: 36-206-01008
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hamm's Hawg Heaven (Individual/Entity) is a restaurant located in Prosperity, South Carolina. The Department conducted an inspection on March 24, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of six hundred dollars **($600.00)**.

67) Order Type and Number: Consent Order 2016-206-03-035
Order Date: September 9, 2016
Individual/Entity: **San Jose**
Facility: San Jose
Location: 115 Northpoint Drive
Lexington, SC 29072
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-05350
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: San Jose (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on May 1, 2015, and April 20, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure employees wash hands after engaging in activities that contaminate their hands.

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

68) Order Type and Number: Consent Order 2016-206-01-021
Order Date: September 9, 2016
Individual/Entity: **George's Drive-In**
Facility: George's Drive-In
Location: 1301 S. Murray Avenue
Anderson, SC 29624
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-01687
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: George's Drive-In (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on March 28, 2016, and April 7, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

69) Order Type and Number: Consent Order 2016-206-01-020
Order Date: September 12, 2016
Individual/Entity: **Ronnie's Café**
Facility: Ronnie's Cafe
Location: 2101 Centerville Road
Anderson, SC 29625
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-04141
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Ronnie's Cafe (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 23, 2015, and March 30, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper sanitization concentration for the warewashing (dish) machine.

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

70) Order Type and Number: Consent Order 2016-206-03-026

Order Date: September 13, 2016
Individual/Entity: **Gus' House of Pizza**
Facility: Gus' House of Pizza
Location: 605 South Main Street
Lancaster, SC 29720
Mailing Address: Same
County: Lancaster
Previous Orders: 2013-206-04-002
Permit Number: 29-206-00743
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Gus' House of Pizza (Individual/Entity) is a restaurant located in Lancaster, South Carolina. The Department conducted inspections on April 7, 2015, April 14, 2015, and April 5, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, two hundred dollars **($1,200.00)**.

71) Order Type and Number: Consent Order 2016-206-03-019
Order Date: September 13, 2016
Individual/Entity: **Crescent Moon**
Facility: Crescent Moon
Location: 2361-A Augusta Highway
Lexington, SC 29072
Mailing Address: Same
County: Lexington
Previous Orders: 2015-206-03-068
Permit Number: 32-206-06119
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Crescent Moon (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on May 27, 2015, and March 22, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure poisonous or toxic chemicals were stored away from food and food contact surfaces.

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

72) Order Type and Number: Consent Order 2016-206-03-024
Order Date: September 15, 2016
Individual/Entity: **Carolina Wings of Blythewood**
Facility: Carolina Wings of Blythewood

Location: 240 Blythewood Road
Blythewood, SC 29016
Mailing Address: P.O. Box 1002
Blythewood, SC 29016
County: Richland
Previous Orders: 2015-206-03-052 ($800.00)
Permit Number: 40-206-07212
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Carolina Wings of Blythewood (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on September 3, 2015, and September 4, 2015. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

73) Order Type and Number: Consent Order 2016-206-03-038
Order Date: September 15, 2016
Individual/Entity: **El Poblano Mexican Restaurant**
Facility: El Poblano Mexican Restaurant
Location: 2371 Dutch Fork Road
Chapin, SC 29036
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-06403
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Poblano Mexican Restaurant (Individual/Entity) is a restaurant located in Chapin, South Carolina. The Department conducted inspections on April 28, 2016, and August 17, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to store foods in a manner to prevent cross contamination.

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

74) Order Type and Number: Consent Order 2016-206-03-034
Order Date: September 15, 2016
Individual/Entity: **Richland Healthy Cuisine**
Facility: Richland Healthy Cuisine
Location: 9 Medical Park, Suite 120
Columbia, SC 29203
Mailing Address: Same

County: Richland
Previous Orders: None
Permit Number: 40-206-03838
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Richland Healthy Cuisine (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 8, 2016, and May 11, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

75) Order Type and Number: Consent Order 2016-206-03-029
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1318**
Facility: Waffle House #1318
Location: 655 Columbia Avenue
Chapin, SC 29036
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Lexington
Previous Orders: 2015-206-03-78
Permit Number: 32-206-02740
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1318 (Individual/Entity) is a restaurant located in Chapin, South Carolina. The Department conducted inspections on March 29, 2016, and May 12, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods; and failed to maintain food contact surfaces clean to sight and touch.

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

76) Order Type and Number: Consent Order 2016-206-08-019
Order Date: September 26, 2016
Individual/Entity: **Waffle House #820**
Facility: Waffle House #820
Location: 503 East Main Street
Ridgeland, SC 29936
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Jasper

Previous Orders: None
Permit Number: 27-206-00246
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #820 (Individual/Entity) is a restaurant located in Ridgeland, South Carolina. The Department conducted inspections on May 24, 2016, and May 27, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

77) Order Type and Number: Consent Order 2016-206-04-001
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1079**
Facility: Waffle House #1079
Location: 1350 Broad Street
Sumter, SC 29150
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Sumter
Previous Orders: None
Permit Number: 43-206-00377
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1079 (Individual/Entity) is a restaurant located in Sumter, South Carolina. The Department conducted inspections on September 15, 2015, and April 27, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

78) Order Type and Number: Consent Order 2016-206-04-017
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1268**
Facility: Waffle House #1268
Location: 1041 Broad Street
Sumter, SC 29150
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Sumter
Previous Orders: None
Permit Number: 43-206-00377

Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1268 (Individual/Entity) is a restaurant located in Sumter, South Carolina. The Department conducted inspections on April 21, 2015, and April 12, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

79) Order Type and Number: Consent Order 2016-206-01-018
Order Date: September 26, 2016
Individual/Entity: **Waffle House #426**
Facility: Waffle House #426
Location: 4620 Clemson Blvd.
Anderson, SC 29622
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Anderson
Previous Orders: 2015-206-01-020
Permit Number: 04-206-01431
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #426 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 24, 2015, and April 25, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded after a maximum of four (4) hours.

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

80) Order Type and Number: Consent Order 2016-206-03-030
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1828**
Facility: Waffle House #1828
Location: 2195 Highway 773
Prosperity, SC 29127
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Newberry
Previous Orders: None
Permit Number: 36-206-01197
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1828 (Individual/Entity) is a restaurant located in Prosperity, South Carolina. The Department conducted inspections on July 23, 2015, and June 6, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain 180°F minimum final rinse temperature for sanitization at the mechanical warewashing (dish) machine.

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

81) Order Type and Number: Consent Order 2016-206-01-019
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1823**
Facility: Waffle House #1823
Location: 2 Justice Lane
Anderson, SC 29621
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Anderson
Previous Orders: 2015-206-01-020
Permit Number: 04-206-01431
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1823 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 22, 2015, and May 23, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

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

82) Order Type and Number: Consent Order 2016-206-02-013
Order Date: September 26, 2016
Individual/Entity: **Waffle House #1878**
Facility: Waffle House #1878
Location: 7425 Augusta Road
Greenville, SC 29773
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Greenville
Previous Orders: None
Permit Number: 23-206-09985
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1878 (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on January 21,

2015, and January 7, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to store poisonous or toxic material in a manner that prevents cross contamination; and failed to ensure equipment such as beverage dispensing nozzles were cleaned at a frequency to preclude an accumulation of soil or mold.

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

83) Order Type and Number: Consent Order 2014-206-03-143
Order Date: September 26, 2016
Individual/Entity: **Food Gallery**
Facility: Food Gallery
Location: 3702 River Drive
Columbia, SC 29201
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-04749
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Food Gallery (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on July 16, 2015, July 21, 2015, and August 7, 2015. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, two hundred dollars **($1,200.00)**.

84) Order Type and Number: Consent Order 2016-206-01-022
Order Date: September 26, 2016
Individual/Entity: **El Patron II**
Facility: El Patron II
Location: 186 Station Drive
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-03328
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Patron II (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on September 1, 2015, and April 5, 2016. The Individual/Entity violated the South Carolina Retail Food

Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods; and, failed to ensure proper sanitization concentrations levels at the mechanical warewashing (dish) machine.

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

85) Order Type and Number: Consent Order 2016-206-06-015
Order Date: September 26, 2016
Individual/Entity: **Johnny Rockets**
Facility: Johnny Rockets
Location: 1216 Celebrity Circle
Myrtle Beach, SC 29572
Mailing Address: P.O. Box 70339
Myrtle Beach, SC 29572
County: Horry
Previous Orders: None
Permit Number: 26-206-06857
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Johnny Rockets (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on May 18, 2015, and February 2, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of five hundred fifty dollars **($550.00)**.

86) Order Type and Number: Consent Order 2016-206-04-004
Order Date: September 26, 2016
Individual/Entity: **Fastrack 1**
Facility: Fastrack 1
Location: 1014 Lamar Highway
Darlington, SC 29540
Mailing Address: P.O. Box 214
Darlington, SC 29540
County: Darlington
Previous Orders: None
Permit Number: 16-206-01670
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Fastrack 1 (Individual/Entity) is a convenience store located in Darlington, South Carolina. The Department conducted inspections on July 29, 2015, and December 14, 2015. The Individual/Entity violated the South Carolina Retail

Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of five hundred fifty dollars **($550.00)**.

87)

Order Type and Number:	Consent Order 2015-206-07-091
Order Date:	September 26, 2016
Individual/Entity:	**Mellow Mushroom**
Facility:	Mellow Mushroom
Location:	19 Magnolia Road Charleston, SC 29407
Mailing Address:	Same
County:	Charleston
Previous Orders:	None
Permit Number:	10-206-07852
Violations Cited:	S.C. Code Ann. Regs. 61-25

Summary: Mellow Mushroom (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on September 23, 2015, October 9, 2015, October 19, 2015, and May 5, 2016. The Individual/Entity violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25; and, pay a civil penalty in the amount of one thousand, two hundred dollars **($1,200.00)**.

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

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

November 10, 2016

( ) ACTION/DECISION

(X) INFORMATION

I. **TITLE:** Health Regulation Administrative and Consent Orders.

II. **SUBJECT:** Health Regulation Administrative Orders, Consent Orders, and Emergency Suspension Orders for the period of September 1, 2016, through September 30, 2016.

III. **FACTS:** For the period of September 1, 2016, through September 30, 2016, Health Regulation reports one (1) Emergency Suspension Order, and four (4) Consent Orders with a total of eleven thousand dollars ($11,000) in assessed monetary penalties.

Health Regulation Bureau	Health Care Facility, Provider or Equipment	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
Health Facilities Licensing	Community Residential Care Facilities	0	1	0	$8,000
EMS & Trauma	Ambulance Services Provider	0	1	0	$3,000
	Paramedics	0	1	0	$0
	EMTs	0	1	1	$0
TOTAL		**0**	**4**	**1**	**$11,000**

Approved By:

Shelly Bezanson Kelly
Director of Health Regulation

HEALTH REGULATION ENFORCEMENT REPORT
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

November 10, 2016

Bureau of Health Facilities Licensing

Facility Type	Total # of Beds or Participants	Total # of Licensed Facilities in South Carolina
Community Residential Care Facilities	17,245	459

1. Oakleaf Village of Lexington (CRCF) – Lexington, SC

Investigation: Department representatives visited Oakleaf Village of Lexington ("Oakleaf") on March 29, 2016, to conduct a complaint investigation, and again on April 21, 2016, to conduct a general inspection.

Violations: In conducting the complaint investigation and general inspection, the Department found a total of twelve (12) violations of Regulation 61-84, two (2) of which were repeat violations. Specifically, Oakleaf was cited one (1) time for violating Section 401, by failing to implement policies and procedures regarding resident care and facility operation; one (1) time for violating Section 504.A.4, by failing to have documentation of current annual training in medication management and administration for a staff member available for review and failing to have documentation of initial training in medication management and administration for a newly-hired staff member; one (1) time for violating Section 601.B, by failing to report confirmed or suspected cases of neglect involving diversion of a resident's controlled medications; two (2) times for violating Section 901.C, by failing to render care and services in accordance with orders from physicians or other authorized healthcare providers; two (2) times for violating Section 1201.A, by failing to ensure that a resident's controlled medications were properly managed in accordance with local, state, and federal laws and regulations, and by failing to ensure that a resident's medication was available for administration; one (1) time for violating Section 1203.F, by failing to ensure that outgoing staff members and incoming staff members documented reviews of residents' medication administration records; one (1) time for violating Section 1205.B, by failing to ensure that a resident's medications were kept in the original containers and no transference between containers; one (1) time for violating Section 1206.C.1, by failing to maintain records of receipt, administration, and disposition of a resident's controlled medication in sufficient detail to enable an accurate reconciliation; one (1) time for violating Section 1206.C.2, by failing to ensure that outgoing and incoming staff members documented reviews at each shift change of the control sheets for controlled substances prescribed to residents and managed by the facility; and one (1) time for violating Section 1207.D, by failing to ensure that the destruction of controlled substances was witnessed by the Administrator or his or her designee, and a staff member trained by individuals licensed to administer medications.

Enforcement Action: By Consent Order executed September 7, 2016, the Department assessed an eight thousand dollar ($8,000) monetary penalty against Oakleaf. Oakleaf is required to make payment of five thousand dollars ($5,000) of the assessed monetary penalty within forty-five (45) days of execution of the Consent Order. The remaining three thousand dollars ($3,000) of the assessed monetary penalty will be stayed upon a six (6) month period of substantial compliance with the requirements of Regulation 61-84 and the terms of the Consent Order. Additionally, the terms of the Consent Order require Oakleaf to

initiate action to correct the violations that initiated this enforcement action and to ensure that all violations of Regulation 61-84 are not repeated. Finally, Oakleaf is required to schedule and attend a compliance assistance meeting with Department representatives within forty-five (45) days of execution of the Consent Order. Oakleaf has paid the required five thousand dollars ($5,000) of the assessed monetary penalty.

Prior Sanctions: None.

Bureau of EMS & Trauma

EMS Provider Type	Total # of Providers in South Carolina
EMT	5,164
EMT – Intermediate	442
Advanced EMT	305
Paramedic	3,641
Athletic Trainers	875
Ambulance Services Provider	256
First Responder Services Provider	2

2. Billy Scott Childress (Paramedic)

Investigation: The Department was notified on January 19, 2016, of alleged actions of Mr. Childress that occurred on January 15, 2016. After loading a patient into the ambulance, but prior to initiation of transport to the hospital, Mr. Childress's EMT partner attempted intravenous ("IV") therapy on the patient. On the required patient care report, Mr. Childress documented that he personally performed the IV therapy attempt, when it was actually his EMT partner that made the attempt.

Violations: Mr. Childress committed misconduct, as defined by S.C. Code Section 44-61-80(F)(16) and Regulation 61-7, Section 1100(B)(17), by falsifying documentation required by the Department. Specifically, Mr. Childress failed to properly record who attempted the IV therapy on the patient care report.

Enforcement Action: The parties met and were able to resolve this matter pursuant to a Consent Order executed September 6, 2016. Pursuant to the terms of the Consent Order, Mr. Childress agreed to a one (1) year suspension of his Paramedic certificate. The suspension shall be held in abeyance for one (1) year, pursuant to the terms of the Consent Order. During the period of abeyance, if Mr. Childress fails to comply with the EMS Act, Regulation 61-7, or the terms of the Consent Order, the Department may call in all or a portion of the agreed upon one (1) year suspension and/or pursue other enforcement action in accordance with the EMS Act and Regulation 61-7. Should the Department call in all or part of the suspension based upon Mr. Childress failing to comply with the terms herein, the Department will notify Mr. Childress via certified mail, and Mr. Childress will return his certificate to the Department.

Prior Sanctions: None.

3. Kathleen Durst Talbert (EMT)

Investigation: The Department was notified on January 19, 2016, of alleged actions of Ms. Talbert that occurred on January 15, 2016. After loading a patient into the ambulance, but prior to initiation of transport to the hospital, Ms. Talbert attempted intravenous ("IV") therapy on the patient, an advanced skill that is outside the scope of practice of an EMT.

Violations: Ms. Talbert committed misconduct, as defined by S.C. Code Section 44-61-80(F)(12) and Regulation 61-7, Section 1100(B)(13), by performing skills above the level for which she was certified. Specifically, Ms. Talbert attempted IV therapy on a patient, a skill beyond the scope of practice for a certified EMT.

Enforcement Action: The parties met and were able to resolve this matter pursuant to a Consent Order executed September 23, 2016. Pursuant to the terms of the Consent Order, Ms. Talbert agreed to a one (1) year suspension of her EMT certificate. The suspension shall be held in abeyance for one (1) year, pursuant to the terms of the Consent Order. During the period of abeyance, if Ms. Talbert fails to comply with the EMS Act, Regulation 61-7, or the terms of the Consent Order, the Department may call in all or a portion of the agreed upon one (1) year suspension and/or pursue other enforcement action in accordance with the EMS Act and Regulation 61-7. Should the Department call in all or part of the suspension based upon Ms. Talbert failing to comply with the terms herein, the Department will notify Ms. Talbert via certified mail, and Ms. Talbert will return her certificate to the Department.

Prior Sanctions: None.

4. Wesley Forquer (EMT)

Investigation: On August 22, 2016, the Department was notified of Mr. Forquer's arrest in Rock Hill, SC. Upon notification, the Department initiated an investigation into the matter. The Department discovered that Mr. Forquer was arrested on August 11, 2016, and charged with domestic violence in the first degree.

Violations: The charge against Mr. Forquer, specifically domestic violence in the first degree, is a felony and a crime involving moral turpitude or gross immorality. Mr. Forquer's alleged conduct is in violation of the EMS Act and Regulation 61-7. The Department found that Mr. Forquer's arrest demonstrated a capacity for inappropriate and criminal behavior towards individuals placed within his trust. The Department further determined that a clear and present danger would exist to the public health, safety, and welfare if Mr. Forquer's EMT certificate was not immediately suspended pending further investigation.

Enforcement Action: Mr. Forquer's EMT certificate was immediately suspended on an emergency basis pursuant to the Emergency Suspension Order executed August 26, 2016. The Department will continue to monitor the investigation.

Prior Sanctions: None.

5. Riverside Ambulance Service (Ambulance Services Provider)

Investigation: On February 23, 2016, the Department was notified by Riverside Ambulance Service ("Riverside") that one of its employees had a valid National Registry of Emergency Medical Technicians ("NREMT") certification, but did not have a South Carolina Emergency Medical Technician ("EMT") certification. As a result of its investigation, the Department determined the employee performed patient

care within the scope of an EMT on at least thirty-four (34) ambulance runs from January 18, 2016, to February 22, 2016, a time in which she was uncertified as a South Carolina EMT.

Violations: The Department found that Riverside violated S.C. Code Section 44-61-70(B)(1) by allowing an uncertified person to provide patient care that is within the scope of an EMT without proper certification.

Enforcement Action: The parties agreed to resolve this matter by Consent Order. Pursuant to the Consent Order executed on September 22, 2016, Riverside agreed to the assessment of a three thousand dollar ($3,000) monetary penalty. Riverside is required to remit payment of five hundred dollars ($500) of the assessed monetary penalty within ninety (90) days of execution of the Consent Order. The remaining two thousand five hundred dollars ($2,500) of the assessed monetary penalty shall be held in abeyance for twenty-four (24) months following execution of the Consent Order. If at any time during the twenty-four (24) month period the Department finds Riverside in violation of the EMS Act or Regulation 61-7, the Department may call in all or part of the three thousand dollar ($3,000) monetary penalty. Any monies called in by the Department shall be due and payable to the Department within thirty (30) calendar days of the date the Department mails written notice that payment is due. Additionally, pursuant to the terms of the Consent Order, Riverside shall have its Training Officer present to all EMT-credentialed personnel currently employed by Riverside a one (1) hour training presentation covering the process, procedure, and paperwork for a candidate to obtain his or her NREMT and South Carolina EMT certifications. The presentation shall detail both the initial and recertification processes. Riverside is required to submit a copy of its rosters of personnel trained with this presentation to the Department within one hundred twenty (120) days of execution of the Consent Order.

Prior Sanctions: None.

BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
SUMMARY SHEET

November 10, 2016

(X) ACTION
( ) INFORMATION

I. TITLE: Public Hearing before the Board and Consideration for Final Approval
Proposed Amendments of Regulation 61-94, *WIC Vendors*
State Register Document No. 4671
Legislative review is required.

II SUBJECT: Request for Finding of Need and Reasonableness Pursuant to S.C. Code Section 1-23-111

III. FACTS:

1. The South Carolina Department of Health and Environmental Control (Department) proposes amending Regulation 61-94, *WIC Vendors*. Regulation 61-94 has not been substantively updated since 2000. These amendments are necessary to update definitions, references, codification and for the overall improvement and updates to the text of the regulation.

2. The Department of Health and Environmental Control proposes to amend and update Regulation 61-94. This amendment and updates pertain to provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265). The provisions required the establishment of a vendor peer group system, distinct peer competitive price criteria, allowable reimbursement levels for each peer group and other vendor related provisions to ensure program integrity. In addition, a final rule, published by the United States Department of Agriculture, Food and Nutrition Services in the Federal Register on March 4, 2014, revised the WIC food packages. The proposed revisions align the WIC food packages with the Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. This rule also encompassed vendor related amendments. All of the vendor provisions and amendments were implemented to ensure adequate and appropriate monitoring of the Program's food delivery system to prevent fraud, waste and abuse from occurring and to safeguard program benefits.

3. A Statement of Need and Reasonableness and Rationale is submitted as Attachment A. The Table of Revisions and the Text of Amendments are submitted as Attachments B and C.

4. Pursuant to 1976 S.C. Code Section 1-23-110(A)(1), the Department initiated the statutory process to amend R.61-94 by publication of a Notice of Drafting in the *State Register* on July 22, 2016. The Notice of Drafting was also published in the *DHEC Regulation Development Update* on the Department's Regulatory website. A copy of the Notice of Drafting is submitted as Attachment E.

5. Pursuant to agency internal review policy, all appropriate Department personnel reviewed the proposed amendments.

6. The Board granted Department staff approval on September 8, 2016, to publicly notice the proposed regulation. Pursuant to S.C. Code Section 1-23-110(A)(3), the Department published a Notice of Proposed Regulation containing the text and notice of opportunity for public comment in the State Register on September 23, 2016, as Document No. 4671 (see Excerpt of Notice in Attachment D). The Notice of Proposed Regulation was also published on the Department's website in its *DHEC Regulation Development*

Update. The publication of the Notice of Proposed Regulation provided opportunity for interested parties to offer input on the proposed regulation by submitting written comments during a public comment period and/or by commenting at the public hearing before the Board scheduled for November 10, 2016.

7. The Department received no comments during the public comment period following publication of the Notice of Proposed Regulation (Document No. 4671), and no changes were made to the proposed regulations as were published in the *State Register*.

8. The Department requests the Board conduct a public hearing pursuant to S.C. Code Section 1-23-111 and find for the need and reasonableness of the proposed amendment to Regulation 61-94.

IV. ANALYSIS:

1. Existing R.61-94 outlines requirements included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) and final rule published by USDA in the Federal Register revising the WIC food packages. The vendor related amendments of this final rule were implemented to prevent fraud, waste and abuse of program benefits. The amendments will also include stylistic changes. A Statement of Need and Reasonableness and Rationale is submitted as Attachment A.

V. RECOMMENDATION:

Department staff recommends the Board find for the need and reasonableness of the proposed regulations and approve them for submission to the Legislature for review.

Submitted by:

Linda Johnson
Interim Director
Bureau of Maternal and Child Health

Approved by:

Lisa A. Davis
Director of Health Services

Attachments

A. Statement of Need and Reasonableness and Rationale
B. Summary of Proposed Revisions
C. Text of Proposed Amendments
D. Excerpt from *State Register* Notice of Proposed Regulation
E. *State Register* Notice of Drafting

ATTACHMENT A
Statement of Need and Reasonableness
Regulation 61-94, WIC Vendors

November 10, 2016

This Statement of Need and Reasonableness and Rationale was determined by staff analysis pursuant to S.C. Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Purpose: The proposed amendments to R.61-94, *WIC Vendors* includes provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L.108-265) a final rule, published by the United States Department of Agriculture, Food and Nutrition Services in the Federal Register on March 4, 2014, revised the WIC food packages. The final rule also contained WIC vendor provisions and amendments to ensure adequate and appropriate monitoring of the Program's food delivery system. Stylistic changes will be made, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legal Authority: The legal authority for R.61-94 is 1976 S.C. Code Section 43-5-910.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly, and publication in the *State Register*. This revised regulation, to include these latest amendments, will be published on the Department's Laws and Regulations website under the Maternal and Child Health category and on the S.C. Legislature Online website in the S.C. Code of Regulations. Printed copies will be made available at cost by request through the DHEC Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFITS:

The proposed amendments are needed to realize the following anticipated benefits:

1. The amendments update R.61-94 to include provisions in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) that require the establishment of a vendor peer group system, distinct peer competitive price criteria, allowable reimbursement levels for each peer group and other vendor related provisions to ensure program integrity.

2. The amendments include revisions to the WIC food packages as published in the final rule by the USDA, Food and Nutrition Services in the Federal Register. The revisions align the WIC food packages with the Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics.

3. The Department proposes vendor related amendments. The vendor provisions and amendments will be implemented to ensure adequate and appropriate monitoring of the Program's food delivery system to prevent fraud, waste and abuse from occurring and to safeguard program benefits.

The above amendments are reasonable to realize the above benefits because they provide an efficient procedure without any anticipated cost increase, provide clear standards and criteria for the regulated community.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated cost increases to the State or its political subdivisions in complying with these proposed amendments. Amendments to R.61-94 will benefit the regulated community and the general public by implementing provisions to ensure program integrity. Participants served by the Program will benefit from these amendments by the provision of more nutritious foods.

There are no physical impact or cost to this change.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The changes are not anticipated to have any negative effect on the environment or public health.

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

There is no anticipated detrimental effect on the environment or public health associated with these amendments.

Statement of Rationale:

The Department proposes amending R.61-94, *WIC Vendors*, as a result of vendor related provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) a final rule, published by the United States Department of Agriculture, Food and Nutrition Services in the Federal Register on March 4, 2014, revised the WIC food packages. The vendor related amendments of this rule were implemented to prevent fraud, waste and abuse of program benefits. The amendments will also include stylistic changes.

ATTACHMENT B
Summary of Proposed Revisions
For Regulation 61-94, WIC Vendors

November 10, 2016

SECTION CITATION/EXPLANATION OF CHANGE:

The statutory authority for this regulation is added under the title of the regulation.

TABLE OF CONTENTS:

The table was revised to reflect the proposed amendments.

61-94.101 Definitions

Section 61-94.101(C) - Amended to update the Federal name of the program.
Section 61-94.101(D) - Amended to update the State name of the program.
Section 61-94.101(F) - Amended to remove food as part of a store's title.

61-94.201 Approval of Vendors

Section 61-94.201(B)(1) - Amended to add that a vendor can request an application by phone.
Section 61-94. 201(B)(2) - Amended to include the documents that are included in the vendor application packet.
Section 61-94.201(B)(3) - Amended to state that all WIC vendors must be authorized to accept SNAP, with the exception of pharmacies.
Section 61-94.201(B)(4) - Deleted
Section 61-94.201(B)(4) - New 61-94.201(B)(4) and re-numbered 61-94.201(B)(4) – 61-94.201(B)(17). Amended to ensure that an employee of a store shall not handle a WIC transaction if that employee is also employed by the WIC Program.
Section 61-94.201(B)(6) - New #61-94.201(B)(5) - Amended to state that a WIC vendor applicant must pass a pre-approval visit before authorization.
Section 61-94.201(B)(5) – Re-numbered 61-94.201(B)(9) to 61-94.201(B)(5)
Section 61-94.201(B)(7) - Deleted
Section 61-94.201(B)(8) - Deleted
Section 61-94.201(B)(10) - New # 61-94.201(B)(7) – Amended to update terminology.
Section 61-94.201(B)(11) - New # 61-94.201(B)(8)
Section 61-94.201(B)(12) - New # 61-94.201(B)(9) – Amended to add store type by Region.
Section 61-94.201(B)(13) – New # 61-94.201(B)(10) – Amended to update terminology.
Section 61-94.201(B)(14) – New # 61-94.201(B)(11) – Amended to update terminology.
Section 61-94.201(B)(15) - New # 61-94.201(B)(12) – Added to require South Carolina location.
Section 61-94.201 (B)(16) - New # 61-94.201(B)(13) – Added to require business hours of operations (as stated in the Vendor agreement).
Section 61-94.201(B)(17) - New # 61-94.201(B)(14) – Amended to add language that a vendor or its management cannot have any convictions or civil judgments that indicate a lack of business integrity.
Section 61-94.201(B) - Added # 61-94.201(B)15(i)-(xv) - Amended to update/revise the list of allowable foods that are authorized for the WIC Program. This section was re-numbered to adjust the codification.
Section 61-94.201(C)(1) – Amended to update the name of the Program.

Section 61-94.201(C) – Added # 61-94.201(C)(4) to include the requirement that a store complete and submit a price survey twice a year.
61-94.301 Redemption of Food Instruments

Section 61-94.301(A) – Amended to state that a vendor can only provide foods as specified in the WIC Food Guide.
Section 61-94.301(E) – Amended to clarify that a manual food instrument should not be accepted without a program stamp.
Section 61-94.301(G) – Deleted
Section 61-94.301(J)(1) – Amended to delete trading stamps as a promotional item.

61-94.401 Submitting Food Instruments for Payment

Section 61-94.401(A) – Revised the method in which the vendor receives payment for food instruments redeemed.
Section 61-94.401(B) – Amended to clarify when the vendor must stamp the food instrument.
Section 61-94.401(C) – Deleted

61-94.501 Payment of Food Instruments

Section 61-94.501(A) - Revised the language on the rejection of food instruments when improperly redeemed by the vendor.
Section 61-94.501(A)(1) – Revised to add clarifying language.
Section 61-94.501(A)(2) – Revised to add clarifying language.
Section 61-94.501(A)(3) – Revised for clarity.
Section 61-94.501(A)(4) - Revised to add clarifying language.
Section 61-94.501(A)(7) – Revised to update the language.
Section 61-94.501(A)(8) – Deleted
Section 61-94.501(A)(10) – Deleted
Section 61-94.501(A) - New # 61-94.501(A)(10) - Amended to add that food instruments deposited more than thirty days after the "Void After" date will be rejected.
Section 61-94.501– Amended to add items 61-94.501(B) through 61-94.501(E) to provide guidance on when a claim against a vendor can be established.

61-94.601 Correction of Rejected Food Instruments

Section 61-94.601(A) – Revised to delete unnecessary language.
Section 61-94.601(B) – Revised to add clarifying language.

61-94.701 Monitoring of Vendors

Section 61-94.701(A) – Revised to delete unnecessary language.
Section 61-94.701(B) – Revised for clarity.

61-94.801 Disqualifications
61-94.801Amended section title to read "Disqualifications and Sanctions"

Section 61-94.801 – This section was amended to include the mandatory vendor sanctions as stipulated by federal regulations.
Section 61-94.801(B) – 61-94.801(F) – statements deleted

Section 61-94.801 – Added new areas numbered 61-94.801(B) – 61-94.801(E) to include additional reasons for vendor sanctions and disqualifications.

61-94.901 Program Violations

Section 61-94.901 – Revised to delete repetitive language.
Section 61-94.901(1) – Deleted re-numbered 61-94.901(1) - 61-94.901(3)
Section 61-94.901(2) – Changed to # 61-94.901(1)(i) – 61-94.901(1)(vii) – Revised to update the point value for violations.
Section 61-94.901(3) – Changed to # 61-94.901(2)(i) – 61-94.901(2)(ix) – Revised to update the violations and add clarifying language.
Section 61-94.901(4) – This section has been revised and moved to section 61-94.801.

61-94.1001 Administrative Appeals

Section 61-94.1001 – Revised to update the appeals process.

ATTACHMENT C
Text of Proposed Amendment to
Regulation 61-94, WIC Vendors

Regulation 61-94, WIC Vendors

Statutory Authority: S.C. Code Section 43-5-910, 1976, as amended.

Table of Contents

Section 101. Definitions.
Section 201. Approval of Vendors.
Section 301. Redemption of Food Instruments.
Section 401. Submitting Food Instruments for Payment.
Section 501. Payment of Food Instruments.
Section 601. Correction of Rejected Food Instruments.
Section 701. Monitoring of Vendors.
Section 801. Disqualifications~~.~~ and Sanctions.
Section 901. Program Violations.
Section 1001. Administrative Appeals.

SECTION 101. Definitions.

As used in these ~~R~~regulations, the following terms shall have the meaning specified:

(A) DHEC. The South Carolina Department of Health and Environmental Control.

(B) State Agency. The South Carolina Department of Health and Environmental Control.

(C) WIC Program. The Special Supplemental ~~Food~~ Nutrition Program for Women, Infants and Children.

(D) State WIC Program. Division of WIC Services. ~~The WIC Administrative Section of the~~ Bureau of Maternal and Child Health, ~~of the~~ South Carolina Department of Health and Environmental Control.

(E) Food Instrument. The document which is used by a participant to obtain supplemental foods.

(F) WIC Vendor. Any ~~food~~ store or pharmacy approved for participation which has a valid, current WIC Vendor Agreement on file at the State WIC Program Office and continues to meet the minimum criteria for participation as listed in the agreement.

SECTION 201. Approval of Vendors.

(A) Only vendors authorized by the State Agency may redeem food instruments or otherwise provide supplemental foods to participants.

(B) To be authorized for participation as a WIC Vendor, a vendor must:

1. Request, in writing~~,~~ or by phone, a WIC Vendor application ~~form~~packet.

2. Submit a completed application ~~form~~packet to the State WIC Program Office~~.~~, including the WIC Vendor Application, WIC Price Survey, Vendor Agreement, and an IRS W-9, Request for Taxpayer Identification and Certification form.

3. Be ~~eligible~~ authorized to participate in the ~~Food Stamp Program.~~Supplemental Nutrition Assistance Program (SNAP). (Pharmacies are exempt from this requirement.)

~~4. Meet the minimum established health standards for the operation of a food market.~~

~~5~~4. Not be employed by the ~~state or local~~ WIC program nor have a spouse, child, parent, or sibling who is employed by the ~~state WIC or local~~ WIC program~~.~~ serving the county in which the vendor applicant conducts business. The vendor applicant also shall not have an employee who handles, transacts deposits, or stores WIC food instruments who is employed by, or has a spouse, child, or parent who is employed by the WIC Program serving the county in which the vendor applicant conducts business.

~~6~~5. Pass~~Have~~ a pre-approval visit completed by the State WIC Program Office.

~~7. Sign a South Carolina WIC Program Vendor Agreement.~~

~~8. Agree to accept training on WIC procedures.~~

~~9~~6. Inform and train cashiers and other staff on program requirements.

~~10~~7. Ensure employees receive instruction regarding the WIC Program policies, procedures and requirements. ~~Be accountable for the actions of employees in the utilization of WIC Food Instruments.~~

~~11~~8. Maintain the minimum stock of WIC foods as required by the Vendor Agreement.

9. Comply with at least one established definition for store type within the four (4) Regions. Type 1 Chain, Type 2 Franchise, Type 3 Commissary, Type 4 Independent/Convenience and Type 5 Pharmacy.

10. Operate the store at a single, fixed location (no mobile/home delivery stores).

11. Purchase infant formula only from a state approved wholesaler, distributor or supplier.

12. Be located in South Carolina. ~~Provide to WIC participants only those foods authorized by the State WIC Program and in the exact quantities prescribed. These foods shall be those designated as acceptable for use in accordance with nutrient requirements set forth by the United States Department of Agriculture.~~

13. Must be open for business at least six (6) days a week for a minimum of eight (8) consecutive hours a day between the hours of 8 am – 10 pm.

14. Have no convictions or civil judgments within the last six (6) years that indicate a lack of business integrity on the part of the current owners, officers, or managers. Such activities include, but are not limited to: fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification of records, making false statements, receiving stolen property, making false claims, or obstruction of justice.

15. Provide to WIC participants only those foods authorized by the State WIC Program and in the exact quantities prescribed.

The following is a list of acceptable foods:

i) Infant formula ~~which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state, and which supplies 67 kilocalories per 100 milliliters or approximately 20 kilocalories per fluid ounce of formula at standard dilution.~~ must be iron-fortified, supply approximately twenty (20) kilocalories per fluid ounce, and not require the addition of any ingredient other than water.

ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal and contains no other ingredients, ~~i.e.,~~ such as fruit, formula or DHA. No organic infant cereal.

iii) Infant juice which contains a minimum of 30 milligrams of Vitamin C per 100 milliliters of single strength or reconstituted frozen juice concentrate. Juice must be pasteurized, 100% unsweetened fruit or vegetable juice. No calcium-fortified or organic juice.

iv) Pasteurized fluid whole, fat free, ~~skim or~~ lowfat or reduced fat milk which is unflavored and contains 400 international units of Vitamin D and 2000 international units of Vitamin A per fluid quart~~:~~; or

v) ~~Evaporated whole or skimmed milk which contains 400 international units of Vitamin D and 2000 international units of Vitamin A per reconstituted quart; or~~ Nonfat dry milk solids may be substituted on a reconstituted quart basis and must contain 400 international units of Vitamin D and 2000 international units of Vitamin A per reconstituted quart; or

vi) ~~Nonfat or lowfat dry milk which contains 400 international units of Vitamin D and 2000 international units of Vitamin A per reconstituted quart; or~~ Quarts and ½ gallons of lactose-free milk (whole, reduced fat, low fat and fat free).

vii) Domestic cheese made from 100% pasteurized milk (~~pasteurized process~~ American, Monterey Jack, ~~Natural~~ Cheddar, ~~Brick, Muenster,~~ & Mozzarella). Block style or sliced, lowfat, reduced fat, low cholesterol and/or low sodium are allowed.

viii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of cereal~~.~~ (no more than 6 grams of sugar per ounce). Half of the cereals authorized must have whole grain as the primary ingredient by weight and meet labeling requirements.

~~ix) Single strength fruit juice or vegetable juice which contains a minimum of 30 milligrams of Vitamin C per 100 milliliters; or~~

~~x) Frozen Concentrated Fruit juice which contains a minimum of 30 milligrams of Vitamin C per 100 milliliters of reconstituted juice.~~

~~xi~~ix) Eggs, Grade A large, white only. ~~or medium~~.

~~xii~~x) Peanut butter, with no added flavorings.

xi~~i~~i) Mature legumes ~~dry peas~~ or beans.

xii) Canned tuna or pink salmon packed in water or oil.

xiii) Infant fruits and vegetables include any variety of single ingredient, commercial infant food fruits or vegetables without added sugars, starches, or salt. No organic infant foods or foods with added DHA.

xiv) Infant meats include any variety of commercial infant food having meat or poultry as a single major ingredient, with added broth or gravy, and no added sugars, salt or DHA.

xv) Whole Grains include whole wheat bread, whole grain bread, brown rice, whole wheat or soft corn tortillas. Whole grain must be the primary ingredient by weight in all whole grain products and meet labeling requirements for making a health claim as a "whole grain food with moderate fat content".

(C) To retain authorization for participation a vendor must:

1. Renew the ~~v~~Vendor ~~a~~Agreement with the State WIC ~~office~~ Program by the established renewal date.

2. Abide by the terms of the Agreement in effect.

3. Have prices which are competitive, based on the WIC Program definition, with similar type stores' prices.

SECTION 301. Redemption of Food Instruments.

In providing supplemental foods to participants, the Vendor shall:

(A) Only provide the supplemental foods as specified ~~on~~ in the WIC ~~f~~Food Guide ~~instrument~~ and only the types, sizes and quantities specified on the food instrument.

(B) Accept food instruments only from individuals who present a valid South Carolina WIC Program ID Card listing them as authorized to redeem the food instruments and receive the supplemental foods.

(C) Provide the supplemental foods at the current price or less than the current price charged to other customers, as indicated on individual food items or shelf labels indicating the price of the items.

(D) Accept food instruments from participants only within the allowed time period, as listed on each food instrument.

(E) Accept manual food instruments only if they have been stamped with a WIC Program ~~authorization~~ stamp.

(F) Refuse to accept any food instruments on which the valid dates or food prescriptions have been altered in any way.

~~(G) Refuse to accept food instruments on which the total costs for the supplemental foods will exceed the "void if exceeds" amount listed on the food instrument.~~

(G~~H~~) Enter the date of purchase and total purchase amount (less tax) for the supplemental foods on the food instruments prior to obtaining the signature of the person authorized to receive the foods.

(H~~I~~) Obtain the signature of the person receiving the supplemental foods and check that signature against the signature on the WIC Program ID Card.

(I~~J~~) Offer WIC participants the same courtesies as other customers, including but not limited to:

1. Providing ~~trading stamps and other~~ promotional specials such as reduced prices on items as advertised.

2. Allowing use of any open check-out line except for those indicated as "cash only".

SECTION 401. Submitting Food Instruments for Payment.

(A) The vendor ~~shall submit~~ must deposit food instruments into their local retail bank within ~~for payment within fortyfive (45)~~ thirty (30) days of the "Void after Date". ~~date the supplemental foods were provided.~~

(B) Each food instrument must be stamped with the official WIC vendor stamp provided to the vendor by the State WIC Program Office prior to depositing.

~~(C) An adding machine tape or an invoice indicating the total value of the food instruments being submitted must be attached to each batch of food instruments.~~

SECTION 501. Payment of Food Instruments.

(A) The State Agency may reject ~~deny payment for~~ food instruments improperly redeemed ~~accepted/submitted for payment~~ and may ~~demand refunds~~ request reimbursement for payments already made for improperly redeemed food instruments. Reasons food instruments may be rejected ~~for non-payment~~ include, but are not limited to:

1. Food instruments accepted prior to or after the valid dates.

2. Food instruments on which the date of purchase has not been ~~applied.~~entered.

3. Food instruments on which the purchase amount has not been entered.~~applied or the purchase amount exceeds the "void if amount exceeds" amount.~~

4. Manual f~~F~~ood instruments on which the local WIC Program ~~project validation~~ stamp has not been applied.

5. Food instruments on which a valid WIC vendor stamp has not been applied.

6. Food instruments on which the serial number is illegible.

7. Food instruments on which a valid ~~patient~~ participant signature has not been applied.

~~8. Food instruments on which the purchase amount has been changed/altered in any fashion.~~

~~9~~8. Food instruments on which the valid dates or food prescription/quantities have been altered.

~~10. Food instruments received more than fortyfive (45) days following the date of purchase entered on the food instruments.~~

~~11~~9. Food instruments accepted by a vendor which is not an authorized vendor as stipulated in Section 201 of these regulations.

10. Food instruments deposited more than thirty days (30) after the "Void after" date.

(B) The State WIC Program may delay payment or establish a claim if the Program determines the vendor has committed a violation that affects the payment to the vendor. The State WIC Program may offset any claim against current and subsequent amounts to be paid to the vendor. The vendor is responsible for any claim assessed by the State WIC Program.

(C) The State WIC Program, at its discretion, may allow the payment of a civil monetary penalty, in lieu of disqualification, as a result of the Program abuse.

SECTION 601. Correction of Rejected Food Instruments.

(A) Vendors shall have the opportunity to correct food instruments which are rejected for errors. in acceptance/processing.

(B) Vendors must justify, correct or provide submit adequate proof that corrected food instruments were accepted according to the procedures listed in Section 401 of these Rregulations.

(C) The State WIC Program has the authority to refuse payment for food instruments on which proper corrections have not been made or with which adequate proof of proper acceptance has not been received.

SECTION 701. Monitoring of Vendors.

(A) All vendors participating in the WIC Program agree to allow periodic monitoring of their business to assess compliance/non-compliance with pProgram requirements.

(B) During a monitoring visit, the vendor shall allow access to all food instruments accepted and located in the store at the time of the monitoring visit. negotiated the day of the review as requested.

SECTION 801. Disqualifications. and Sanctions.

(A) The State WIC Program may disqualify a vendor for pProgram abuse, failure to meet the requirements of the WIC Vendor Agreement, or other just causes.

(B) Mandatory Vendor Sanctions. The State WIC Program is empowered to determine the method for establishing the length of disqualification periods and has the right to apply such disqualification periods, as published in the applicable WIC State Plan of Operations.

1. One (1) Year Disqualification. A vendor shall be disqualified from the WIC Program for a period of one (1) year for:

(a) A pattern of providing unauthorized food items in exchange for WIC food instruments, including charging for supplemental food provided in excess of those listed on the WIC check;

(b) A pattern of charging above the maximum allowable price for WIC items;

(c) Intentionally providing false information on the WIC Vendor Application;

(d) Intentionally providing false information on the Vendor Price Survey;

(e) Non-payment of any claim for overcharges to the WIC Program;

(f) Failure to allow monitoring of stores by a WIC Investigator or failure to provide WIC food instruments for review when requested by the WIC Investigator;

(g) Forging a signature on WIC food instruments;

(h) Failure to submit a WIC Vendor Price Survey; or

(i) Failure to attend WIC Vendor Training.

2. Three (3) Year Disqualification. A vendor shall be disqualified from the WIC Program for three (3) years for:

(a) One incident of the sale of alcoholic beverage or tobacco products in exchange for WIC food instruments;

(b) A pattern of claiming reimbursement for the sale of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time, failing to supply store records, or failing to allow an audit of such records by the State WIC Program;

(c) A pattern of charging WIC participants more for supplemental food than non-WIC customers or charging participants more than the current shelf price;

(d) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;

(e) A pattern of charging for supplemental food not received by the WIC participant; or

(f) A pattern of providing credit or non-food items, other than alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives or controlled substances in exchange for WIC food instruments.

3. Six (6) Year Disqualification. A vendor shall be disqualified from the WIC Program for six (6) years for:

(a) One incident of buying or selling WIC food instruments for cash (trafficking);

(b) One incident of buying or selling firearms, ammunition, explosives or controlled substances as defined in 21 U.S.C. 802 in exchange for WIC food instruments.

4. Permanent Disqualification. A vendor shall be permanently disqualified from the WIC Program for any conviction of trafficking (buying or selling WIC food instruments for cash) or selling firearms, ammunition, explosives or controlled substances in exchange for a WIC food instrument. A vendor is not entitled to receive any compensation for revenues lost as a result of such violation.

(C) A vendor who has been disqualified from SNAP shall also be disqualified from the WIC Program. This disqualification shall be the same length of time as SNAP disqualification, and may begin at a later date than the SNAP disqualification. This disqualification shall not be subject to administrative or

judicial review under the WIC Program. ~~A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws.~~

(D) Second Mandatory Sanction. ~~The State WIC Program has the right to request a refund for any and all overcharges made by vendors or for any WIC transaction by a vendor which results in a cost to the agency.~~When a vendor, who has been sanctioned for violating any of the provisions listed in this section, receives a sanction for a second violation of these provisions, the second sanction shall be double the amount of the first.

(E) Third or Subsequent Mandatory Sanctions. ~~The State WIC Program has the right to offset payments to vendors in order to collect refund.~~When a vendor, who has been assessed two or more sanctions for violation of any of the provisions listed in this section, receives a third or subsequent sanction for a violation of these provisions, the third and all subsequent sanctions shall be double the amount of the immediately preceding sanction.

~~(F) The State WIC Program, at its discretion, may allow the payment of a civil money penalty in lieu of disqualification for program abuse.~~

SECTION 901. Program Violations.

Each violation of program regulations has a set point value and a specific time period during which the points will remain on a vendor's record. If a vendor accumulates fifteen (15) or more violation points, the store will be disqualified from the WIC ~~p~~Program. The period of disqualification is determined by the nature of the violation(s), the number of violations and past disqualifications. ~~Any vendor which accrues fifteen (15) or more points shall be disqualified from the program for a period of time within the Department's discretion.~~

~~1. The following violations carry a point value of 15 and remain on a vendor's record for two (2) years:~~

~~(i) Failure to allow monitoring of store by WIC; failure to provide food instruments for review when requested.~~

~~(ii) Non-payment of claim for overcharges made by WIC Program.~~

~~(iii) Intentionally providing false information on the WIC vendor application.~~

~~(iv) Intentionally providing false information on the WIC Vendor Price Survey.~~

~~2~~1. The following violations carry a point value of ~~7.5~~8 and remain on a vendor's record for 18 months~~;~~:

(~~i~~a) Contacting WIC participants in an attempt to recoup funds for instruments not paid by the Program. ~~agency~~

(~~ii~~b) Not providing ~~trading stamps or other~~ "promotional specials" to WIC participants or not accepting centsoff- coupons or store discount cards from WIC participants to reduce the amount charged to the program. ~~WIC price (or to provide store incentives.~~

(~~iii~~c) Issuing "RAIN" checks.

(~~iv~~d) Requiring WIC participants to use special check-out lanes~~.~~, ~~N~~not showing WIC participants the same courtesies as other customers~~.~~, or engaging in any act of discrimination involving a WIC participant.

(~~v~~e) Knowingly entering false information on food instruments. ~~check.~~

(~~vi~~f) Requiring participants to make a cash purchase to redeem food instruments. ~~checks.~~

(g) Failure to stock between 4-8 food items as listed in the Vendor Agreement.

~~3~~2. The following violations carry a point value of 5~~.0~~ and remain on a vendor's record for one (1) year:

(~~i~~a) Allowing substitution for foods listed on the food instrument.

~~(ii) Failure to submit WIC Vendor Price Survey or to submit survey in a timely manner.~~

~~(iii) Failure (without just cause) to attend vendor training sessions.~~

(~~iv~~b) Failure to stock between 1-3 food items ~~required quantity and/or variety of foods~~ as listed in the Vendor Agreement.

(~~v~~c) Requiring participants to purchase a specific brand of WIC approved foods when more than one brand is available.

(~~vi~~d) Using a WIC stamp other than the one issued by the ~~agency (DHEC)~~State WIC Program.

(~~vii~~e) Failure to properly redeem food instruments including but not limited to: not asking for I.D. cards, not completing date and purchase price on food instrument prior to obtaining participant's signature.

(~~viii~~f) Not marking WIC items with price labels or shelf tags.

(~~ix~~g) Collecting sales tax on WIC Purchases.

(h) Stocking WIC approved food outside of the manufacturer's expiration date.

(i) Providing (selling or giving) incentive items to WIC participants.

~~4. There are eighteen items which do not have a point value but can lead to or extend a disqualification period.~~

~~(1) Disqualification from the Food Stamp Program shall result in automatic disqualification from the WIC Program. The disqualification shall be the same length of time as the Food Stamp disqualification, may begin at a later date than the Food Stamp Program disqualification, and shall not be subject to administrative or judicial review under the WIC Program.~~

~~(2) Failure to return WIC Vendor Stamp to the WIC Program upon notice of disqualification shall result in a 30 day extension of a disqualification period.~~

~~(3) Failure to meet health department standards for the operation of a food market shall result in a disqualification period, i.e., not having current appropriate health department permit.~~

~~(4) Failure to submit a WIC Vendor Price List after second request shall result in termination of agreement.~~

~~(5) Prices being charged for WIC foods increasing to be more than the allowable percentage (as listed in the current WIC Agreement) of the average prices charged for the same type foods by other stores of the same type shall result in termination of the agreement.~~

~~(6) Providing credit or non-food items, other than alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives or controlled substances in exchange for food instruments shall result in a three (3) year disqualification.~~

~~(7) Forging signatures on food instruments shall result in automatic disqualification for a period of one (1) year.~~

~~(8) Providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the food instrument shall result in a one (1) year disqualification.~~

~~(9) The sale of alcoholic beverages or tobacco products in exchange for food instruments shall result in a three (3) year disqualification.~~

~~(10) Claiming reimbursement for the sale of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time or failing to supply store records or failing to allow an audit of such records by the State WIC Program shall result in a three (3) year disqualification.~~

~~(11) Charging participants more for supplemental food than nonWIC customers or charging participants more than the current shelf price shall result in a three (3) year disqualification.~~

~~(12) Receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person shall result in a three (3) year disqualification.~~

~~(13) Charging for supplemental food not received by the participant shall result in a three (3) year disqualification.~~

~~(14) An administrative finding of buying or selling food instruments for cash or selling firearms, ammunition, explosives or controlled substances in exchange for instrument shall result in a six (6) year disqualification.~~

~~(15) A conviction for trafficking (buying or selling food instruments for cash) in food instruments or selling firearms, ammunition, explosives or controlled substances in exchange for food instruments shall result in permanent disqualification.~~

~~(16) When a vendor, who previously has been assessed a sanction for any of the violations listed in items six (6) through fifteen (15), receives another sanction for any of these violations, this Agency shall double the second sanction.~~

~~(17) When a vendor, who previously has been assessed two or more sanctions for any of the violations listed in items six (6) through (15), receives another sanction for any of these violations, this Agency shall double the third sanction and all subsequent sanctions.~~

~~(18) Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program.~~

SECTION 1001. Administrative Appeals.

~~Any person may submit a written appeal within fifteen days after the receipt of any decision expressing an intent by the Department to impose disqualification, penalties or other such action that would affect that person's participation in the program.~~

~~Any such decision shall be administratively reviewed by the Board of Health and Environmental Control, or its designee, pursuant to the State Administrative Procedures Act and DHEC's Regulation on Contested Cases.~~

All vendors have the opportunity to request a fair hearing (administrative review) regarding certain adverse actions taken by the State Agency. The vendor must provide the State Agency with a written fair hearing request within fifteen days (15) of the receipt of the notice of the adverse action. The written request must list the actions with which the vendor disagrees, as well as reasons the vendor disagrees with these actions. If the vendor does not request a hearing within the fifteen (15) day period following notification, the State Agency's decision becomes final.

If a timely request of final review is filed with the DHEC Clerk of the Board, the Clerk will provide additional information regarding review procedures. If the DHEC Board declines, in writing, to schedule a final review conference, the State Agency's decision becomes final and the vendor may request a contested cased hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed informing the vendor that the Board declined to hold a final review conference.

ATTACHMENT D
Excerpt from *State Register* Notice of Proposed Regulation
Published September 23, 2016

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Text:

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

Document No. 4671
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 43-9-510

Regulation 61-94, *WIC Vendors.*

Preamble:

The Department of Health and Environmental Control ("Department") proposes amending R.61-94, *WIC Vendors.* These amendments include provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L.108-265) and the interim rule published by the USDA, Food and Nutrition Services in the Federal Register that revised the WIC food packages. The interim rule also contained WIC vendor provisions and amendments to ensure adequate and appropriate monitoring of the Program's food delivery system. Stylistic changes are also proposed.

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ATTACHMENT E
STATE REGISTER NOTICE OF DRAFTING

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 43-5-910

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-94, *WIC Vendors*. Interested persons may submit written comments to Berry Kelly, WIC State Director, Division of WIC Services, South Carolina Department of Health and Environmental Control, 2100 Bull Street, Columbia, South Carolina 29201 or via email at kellybb@dhec.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. October 24, 2016, the close of the comment period.

Synopsis:

The Department of Health and Environmental Control proposes to amend and update Regulation 61-94. This amendment and updates pertain to provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265). The provisions required the establishment of a vendor peer group system, distinct peer competitive price criteria, allowable reimbursement levels for each peer group and other vendor related provisions to ensure program integrity. In addition, an interim rule, published by the United States Department of Agriculture, Food and Nutrition Services in the Federal Register on December 6, 2007, revised the WIC food packages. The proposed revisions align the WIC food packages with the Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. This rule also encompassed vendor related amendments. All of the vendor provisions and amendments were implemented to ensure adequate and appropriate monitoring of the Program's food delivery system to prevent fraud, waste and abuse from occurring and to safeguard program benefits.

BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

Summary Sheet
November 10, 2016

__X__ Action
____ Information

I. SUBJECT: Placement of the synthetic opioid, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700), into schedule I for Controlled Substances.

II. FACTS: Controlled substances are governed by the Controlled Substances Act (CSA), found at Title 44, Chapter 53, of the S.C. Code of Laws. Section 44-53-160 is titled "Manner in which changes in schedule of controlled substances shall be made." Pursuant to Section 44-53-160, controlled substances are generally designated by the General Assembly, upon recommendation by DHEC. Schedule I substances are listed in § 44-53-190. Section 44-53-160(C) provides a process by which DHEC can expeditiously designate a substance as a controlled substance if the federal government has so designated.

§ 44-53-160(B) states:

"Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change."

III. ANALYSIS:

a. Summary:

The Administrator of the Drug Enforcement Administration issued its notice of intent to temporarily schedule the synthetic opioid, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700, "PINK"), into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act on September 7, 2016. This action was based on a finding by the Administrator that the placement of this synthetic opioid into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. No final order has been issued to date, but was anticipated at any time after October 7, 2016.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health.

Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for U-47700, summarized below, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

The substance U-47700 was first described in 1978 in the patent literature. Publications in the scientific literature in the early 1980's found that U-47700 behaved similarly to morphine in animal models. No approved medical use has been identified for this synthetic opioid, nor has it been approved by the FDA for human consumption. The recent identification of U-47700 in drug evidence and the identification of this substance in association with fatal overdose events indicate that this substance is being abused for its morphine-like properties. In addition, U-47700 is available for purchase over the Internet and is marketed as a "research chemical." Labels which state "not for human consumption" or "for research purposes only" have been encountered and are likely used in an effort to circumvent statutory restrictions on controlled substance analogues. 21 U.S.C. 813.

The DEA was aware of at least 15 confirmed fatalities associated with U-47700, as of the date of publication in the Federal Register. More deaths have occurred, including two in South Carolina. The information on these deaths occurring in 2015 and 2016 was collected from personal communications and toxicology and medical examiner reports. The number of deaths reported by state, are as follows: New Hampshire (1), North Carolina (10), Ohio (1), Texas (2), and Wisconsin (1). It is believed this synthetic opioid only recently became available as a replacement for other opioids that are commonly abused (i.e. oxycodone, heroin, fentanyl). The population likely to abuse U-47700 appears to overlap with the populations abusing prescription opioid analgesics and heroin, as evidenced by drug use history documented in U-47700 fatal overdose cases. This is further supported by U-47700 being sold on the illicit market in glassine bags, some of which are marked with stamped logos, imitating the sale of heroin. Because abusers of U-47700 are likely to obtain this substance through non-regulated sources, the identity, purity, and quantity is uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (i.e. use an illicit drug for the first time) U-47700 abuse are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (e.g., fentanyl, morphine, etc.).

U-47700 exhibits pharmacological profiles similar to that of morphine and other mu-opioid receptor agonists. Due to limited scientific data, the potency and toxicity of U-47700 are not known; however, the toxic effects of U-47700 in humans are demonstrated by overdose fatalities associated with this substance. Abusers of U-47700 are exposed to significant adverse health risks potentially even more significant, as compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone.

Based on the documented case reports of overdose fatalities, the abuse of U-47700 leads to the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. The public

health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses. This indicates that U-47700 poses an imminent hazard to the public safety.

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the continued uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of U-47700 poses an imminent hazard to the public safety. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated April 18, 2016, notified the Assistant Secretary of the Department of Health and Human Services of the DEA's intention to temporarily place this substance in Schedule I. The Assistant Secretary responded, stating that HHS had no objection to the temporary placement of U-47700 into Schedule I of the Controlled Substances Act. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for U-47700 indicate that this substance meets all of these criteria.

b. Conclusion

This notice of intent issued by the Administrator initiates an expedited temporary scheduling action and provides the 30-day notice pursuant to section 201(h) of the CSA, 21 U.S.C. 811(h). In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule U-47700 in schedule I of the CSA, and finds that placement of this synthetic opioid into schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

IV. RECOMMENDATION: 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: U-47700)—(9547) has been determined to pose an imminent hazard to the public safety. Therefore, staff recommends, in accordance with SC Code Section 44-53- 160(B), 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: U-47700)—(9547), "PINK") be placed into Schedule I of the SC Controlled Substances in order to avoid an imminent hazard to the public safety.

Submitted by:

Lisa Thomson
Chief, Bureau of Drug Control

Shelly Kelly
Deputy Director for Health Regulations

Attachments: Federal Register Vol. 81, No. 173, Wednesday, September 7, 2016

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–21231 Filed 9–6–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–440]

Schedules of Controlled Substances: Temporary Placement of U–47700 Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of intent.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this notice of intent to temporarily schedule the synthetic opioid, 3,4-dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide (also known as U–47700), into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of this synthetic opioid into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. Any final order will impose the administrative, civil, and criminal sanctions and regulatory controls applicable to schedule I controlled substances under the Controlled Substances Act on the manufacture, distribution, possession, importation, exportation, research, and conduct of, instructional activities of this synthetic opioid.

DATES: September 7, 2016.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION: Any final order will be published in the **Federal Register** and may not be effective prior to October 7, 2016.

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801–971. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, and are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into schedule I of the CSA.[1] The Administrator transmitted notice of his intent to place U–47700 in schedule I on a temporary basis to the Assistant Secretary by letter dated April 18, 2016. The Assistant Secretary responded to this notice by letter dated April 28, 2016, and advised that based on review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for U–47700. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of U–47700 into schedule I of the CSA. U–47700 is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for U–47700 under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of U–47700 in schedule I on a temporary basis is necessary to avoid an imminent hazard to public safety.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

U–47700

The substance U–47700 was first described in 1978 in the patent literature. Publications in the scientific literature in the early 1980's found that U–47700 behaved similarly to morphine in animal models. No approved medical

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

use has been identified for this synthetic opioid, nor has it been approved by the FDA for human consumption. The recent identification of U–47700 in drug evidence and the identification of this substance in association with fatal overdose events indicate that this substance is being abused for its morphine-like properties. In addition, U–47700 is available for purchase over the Internet and is marketed as a "research chemical." Labels which state "not for human consumption" or "for research purposes only" have been encountered and are likely used in an effort to circumvent statutory restrictionson controlled substance analogues. 21 U.S.C. 813.

Available data and information for U–47700, summarized below, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis is available in its entirety under the public docket of this action as a supporting document at *www.regulations.gov* under Docket Number DEA–440.

Factor 4. History and Current Pattern of Abuse

The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by State and local forensic laboratories across the country. The first laboratory submissions of U–47700 were recorded in the first quarter of 2016; 10 records were reported from January–March 2016 according to NFLIS (query date: 06/20/2016).

On October 1, 2014, the DEA implemented STARLiMS (a web-based, commercial laboratory information management system) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are reposited in STARLiMS; data from STARLiMS were queried on April 12, 2016. STARLiMS registered one report containing U–47700 in 2016 from Montana. Through information collected from law enforcement reports and personal communications,[2] [3] the DEA is aware of the identification of U–47700 from toxicology reports and submitted evidence to forensic laboratories in several states, including New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Texas, and Wisconsin. These identifications occurred in 2015 and 2016.

Evidence suggests that the pattern of abuse of synthetic opioids, including U–47700, parallels that of heroin and prescription opioid analgesics. Seizures of U–47700 have been encountered in powder form and in counterfeit tablets that mimic pharmaceutical opioids. U–47700 has also been encountered in glassine bags and envelopes and knotted corners of plastic bags, which demonstrates the abuse of this substance as a replacement for heroin or other opioids, either knowingly or unknowingly. U–47700 has been encountered as a single substance as well as in combination with other substances, including heroin, fentanyl, and furanyl fentanyl.

Factor 5. Scope, Duration and Significance of Abuse

The DEA is currently aware of at least 15 confirmed fatalities associated with U–47700. The information on these deaths occurring in 2015 and 2016 was collected from personal communications and toxicology and medical examiner reports and was reported from New Hampshire (1), North Carolina (10), Ohio (1), Texas (2), and Wisconsin (1). The population likely to abuse U–47700 appears to overlap with the populations abusing prescription opioid analgesics and heroin, as evidenced by drug use history documented in U–47700 fatal overdose cases. This is further supported by U–47700 being sold on the illicit market in glassine bags, some of which are marked with stamped logos, imitating the sale of heroin. Because abusers of U–47700 are likely to obtain this substance through non-regulated sources, the identity, purity, and quantity is uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (*i.e.* use an illicit drug for the first time) U–47700 abuse are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.*, fentanyl, morphine, etc.).

STARLiMS contains a report in which U–47700 was identified in drug exhibits submitted in 2016 from Montana. A query of NFLIS returned 10 records of U–47700 being identified in exhibits submitted to Federal, State and local forensic laboratories in the first quarter of 2016. The DEA is not aware of any laboratory analyses of drug evidence identifying U–47700 prior to 2015, indicating that this synthetic opioid only recently became available as a replacement for other opioids that are commonly abused (*i.e.* oxycodone, heroin, fentanyl). U–47700 is available over the Internet and is marketed as a "research chemical" which allows this substance to be easily obtainable.

Factor 6. What, if Any, Risk There Is to the Public Health

U–47700 exhibits pharmacological profiles similar to that of morphine and other mu-opioid receptor agonists. Due to limited scientific data, the potency and toxicity of U–47700 are not known; however, the toxic effects of U–47700 in humans are demonstrated by overdose fatalities associated with this substance. Abusers of U–47700 may not know the origin, identity, or purity of these substances, thus posing significant adverse health risks when compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone.

Based on the documented case reports of overdose fatalities, the abuse of U–47700 leads to the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

U–47700 has been associated with fatalities. At least 15 confirmed overdose deaths involving U–47700 occurred in 2015 and 2016 in New Hampshire (1), North Carolina (10), Ohio (1), Texas (2), and Wisconsin (1). This indicates that U–47700 poses an imminent hazard to the public safety.

Finding of Necessity of Schedule I Placement to Avoid Imminent Hazard To Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the continued uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of U–47700 poses an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for U–47700 in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and

[2] Email from North Carolina Department of Health and Human Services, to DEA (April 13, 2016 09:54 a.m. EST) (on file with DEA).

[3] Email from Erie County, Central Police Services, to DEA (March 22, 2016 10:12 a.m. EST) (on file with DEA).

information for U–47700 indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated April 18, 2016, notified the Assistant Secretary of the DEA's intention to temporarily place this substance in schedule I.

Conclusion

This notice of intent initiates an expedited temporary scheduling action and provides the 30-day notice pursuant to section 201(h) of the CSA, 21 U.S.C. 811(h). In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule U–47700 in schedule I of the CSA, and finds that placement of this synthetic opioid into schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds that it is necessary to temporarily place this synthetic opioid into schedule I to avoid an imminent hazard to the public safety, any subsequent final order temporarily scheduling this substance will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular scheduling process. 21 U.S.C. 811(h) (1) and (2). It is the intention of the Administrator to issue such a final order as soon as possible after the expiration of 30 days from the date of publication of this notice. U–47700 will then be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, research, conduct of instructional activities and chemical analysis, and possession of a schedule I controlled substance.

The CSA sets forth specific criteria for scheduling a drug or other substance. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done "on the record after opportunity for a hearing" conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this notice of intent. In the alternative, even assuming that this notice of intent might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Although the DEA believes this notice of intent to issue a temporary scheduling order is not subject to the notice and comment requirements of section 553 of the APA, the DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator will take into consideration any comments submitted by the Assistant Secretary with regard to the proposed temporary scheduling order.

Further, the DEA believes that this temporary scheduling action is not a "rule" as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraph (h)(21). The addition reads as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

(21) 3,4-Dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: U–47700). (9547)

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Dated: August 31, 2016.

Chuck Rosenberg,

Acting Administrator.

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