

SENATE AMENDMENT

AMENDMENT NO. _____

Ravenel/Charlton
March 30, 2021

ADOPTED	TABLED	CARRIED OVER	FAILED	RECONSIDERED
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Clerk of the Senate

ADOPTION NO. _____

BILL NO: S. 2

(Reference is to the original version.)

The Committee on Medical Affairs proposed proposed the following amendment (VR\2C002.CC.VR21):

Amend the bill, as and if amended, by striking all the enacting words and inserting:

/ SECTION 1. On the effective date of this act:

(1) there is created the Department of Public and Behavioral Health;

(2) the divisions, offices, and programs of the Department of Health and Environmental Control that perform health-related functions shall become a division of the Department of Public and Behavioral Health with the director of the department being deemed the head of the division unless otherwise specified, and all relevant powers and duties assigned to the Department of Health and Environmental Control being transferred to and devolved upon the Department of Public and Behavioral Health;

(3) the divisions, offices, and programs of the Department of Alcohol and Other Drug Abuse Services shall become a division of the Department of Public and Behavioral Health with the director of the department being deemed the head of the division unless otherwise specified, and all powers and duties assigned to the Department of Alcohol and Other Drug Abuse Services being transferred to and devolved upon the Department of Public and Behavioral Health;

(4)(a) except as provided in subitem (b), the divisions, offices, and programs of the Department of Mental Health shall become a division of the Department of Public and Behavioral Health with the director of the department being deemed the head of the division unless otherwise specified, and all powers and duties assigned to the Department of Mental Health being transferred to and devolved upon the Department of Public and Behavioral Health;

(b) the authority to establish, manage, and operate veterans homes shall be transferred to the Department of Veterans' Affairs, and all powers and duties assigned to the Department of Mental Health regarding veterans homes being transferred to and devolved upon the Department of Veterans' Affairs. To the extent, the Department of Mental Health owns the grounds upon which these veterans homes are located, title shall be transferred to the Department of Veterans' Affairs;

(5) there is created the Department of Environmental Services;

(6)(a) except as provided in subitem (b), the divisions, offices, and programs of the Department of Health and Environmental Control that perform functions related to regulation and protection of the environment shall become divisions, offices, and programs of the Department of Environmental Services with the director of the department being deemed the head of the divisions, offices, and programs unless otherwise specified, and all relevant powers and duties assigned to the Department of Health and Environmental Control being transferred to and devolved upon the Department of Environmental Services;

(b) the food safety program in the Division of Food and Lead Risk Assessment and the Milk and Dairy Lab of the Department of Health and Environmental Control shall become a division of the Department of Agriculture with the director

of that department being deemed the head of the division unless otherwise specified, and all relevant powers and duties assigned to the Department of Health and Environmental Control being transferred to and devolved upon the Department of Agriculture;

(7) the Water Resources Division of the Department of Natural Resources shall become a division of the Department of Environmental Services with the director of the department being deemed the head of the division unless otherwise specified, and all relevant powers and duties assigned to the Department of Natural Resources being transferred to and devolved upon the Department of Environmental Services; and

(8) the South Carolina Department of Alcohol and Other Drug Abuse Services, South Carolina Mental Health Commission, the South Carolina Department of Mental Health, the South Carolina Department of Health and Environmental Control, and the South Carolina Board of Health and Environmental Control shall be abolished.

SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended to read:

“CHAPTER 1

Department of Health and Environmental Control
Public and Behavioral Health

Article 1

General Provisions

Section 44-1-10. There is created the Department of Public and Behavioral Health comprised of:

- (1) the Division of Public Health;
- (2) the Division of Alcohol and Other Drug Abuse Services; and
- (3) the Division of Mental Health.

~~Section 44-1-20. There is created the South Carolina Department of Health and Environmental Control which shall be administered under the supervision of the South Carolina Board of Health and Environmental Control. The board shall consist of eight members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the board. The Governor may remove the chairman of the board pursuant to Section 1-3-240(B); however, the Governor only may remove the other board members pursuant to Section 1-3-240(C). The terms of the members shall be for four years and until their successors are appointed and qualify. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. (A)~~

~~The Governor shall appoint a Director of the Department of Public and Behavioral Health pursuant to Section 1-30-10(B)(1) with the advice and consent of the Senate who manages the department and who may appoint deputies for the divisions pursuant to Section 1-30-10(E).~~

~~(B) If a vacancy occurs in the department when the Senate is not in session, the Governor may appoint a director to fill the vacancy until the Senate acts on the appointment.~~

~~(C) The director is subject to removal by the Governor as provided for in Section 1-3-240.~~

~~(D) Until the Governor appoints the initial director after creation of the department, the Director of the Department of Health and Environmental Control shall serve as the Director of the Department of Public and Behavioral Health.~~

~~Section 44-1-30. The Board shall meet at least quarterly and the members shall receive such compensation for their services as is provided by law for members of boards and commissions. The director shall have all authority and duties as provided for in Chapter 30, Title 1.~~

~~Section 44-1-40. The board shall select a director for the department who shall serve a four-year term and who shall have such authority and perform such duties as may be directed by the board. The salary of the director shall be fixed by the board, upon approval of the State Budget and Control Board. For any vacancy occurring in the office of director on or after~~

~~February 1, 1995, the board, after consultation with and approval by the Governor, must submit the name of its appointee to the Senate for the Senate's advice and consent. On or after February 1, 1995, the board may remove a director only after consultation with and approval by the Governor.~~

~~Section 44-1-50. The board may conduct such administrative reviews as may be required by law, as considered necessary by the board to render a final agency determination in matters involving the issuance, denial, renewal or revocation of permits, licenses, or other actions of the department which may give rise to a contested case pursuant to Chapter 23 of Title 1.~~

~~The board shall provide for the administrative organization of the department and shall consolidate and merge existing duties, functions, and officers of the former agencies as may be necessary for economic and efficient administration. Provided, however, that the board may appoint such advisory boards as it considers necessary to carry out the functions of Sections 44-1-10 to 44-1-70, and there shall be provided a compensation for their services as provided by the law for members of boards and commissions.~~

~~Section 44-1-60. (A) All department decisions of the Department of Public and Behavioral Health involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, certificates, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 44-1-65.~~

~~(B) The department staff shall comply with all requirements for public notice, receipt of public comments and public hearings before making a department decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment and public hearings.~~

~~(C) The initial decision involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other action of the department shall be a staff decision.~~

~~(D) In making a staff decision on any about a permit, license, certification or other approval, the department staff shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny or condition such a permit, license, certification or other approval. At the time that such staff a decision is made, the department shall issue a department written decision, and shall base its department decision on the administrative record, which shall must consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification or other approval. The administrative record may also may include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as such materials are specifically referred to in the department decision. The department decision need not be issued for routine permits for which no adverse public comments have been received is not required to issue a written decision for issuance of routine permits for which the department has not received adverse public comments.~~

~~(E)(D)(1) Notice of a The department decision must be sent shall send a notice of a decision by certified mail, returned receipt requested to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail in lieu of certified mail. Notice of staff decisions for which a department written decision is not required pursuant to subsection (D)(C) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified.~~

~~(2) The staff decision becomes the final agency decision fifteen calendar days after notice of the staff decision has been mailed to the applicant, unless a written request for final review accompanied by a filing fee is filed with the department by the applicant, permittee, licensee, or affected person.~~

~~(3) The filing fee must be in the amount of one hundred dollars unless the department establishes a fee schedule by regulation after complying with the requirements of Article 1, Chapter 23, Title 1. This fee must be retained by the department in order to help defray the costs of the proceedings and legal expenses.~~

~~(F) No later than sixty calendar days after the date of receipt of a request for final review, a final review conference must be conducted by the board, its designee, or a committee of three members of the board appointed by the chair. If the board declines in writing to schedule a final review conference or if a final review conference is not conducted within sixty calendar days, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person requests pursuant to subsection (G) a contested case hearing before the Administrative Law Court. The department shall set the place, date, and time for the conference; give the applicant and affected persons at least ten calendar days' written notice~~

of the conference; and advise the applicant that evidence may be presented at the conference. The final review conference must be held as follows:

(1) Final review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the moving party. During the course of the final review conference, the staff must explain the staff decision and the materials relied upon in the administrative record to support the staff decision. The applicant or affected party shall state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. The staff may rebut information and arguments presented by the applicant or affected party and the applicant or affected party may rebut information and arguments presented by the staff. Any final review conference officer may request additional information and may question the applicant or affected party, the staff, and anyone else providing information at the conference.

(2) After the final review conference, the board, its designee, or a committee of three members of the board appointed by the chair shall issue a written final agency decision based upon the evidence presented. The decision may be announced orally at the conclusion of the final review conference or it may be reserved for consideration. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. In either event, the written decision must be mailed to the parties no later than thirty calendar days after the date of the final review conference. Within thirty calendar days after the receipt of the decision pursuant to item (1) an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the final agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions of Section 1-23-330 regarding the department's specialized knowledge.

(3) Prior to the initiation of the final review conference, an applicant, permittee, licensee, or affected person must be notified of their right to request a transcript of the proceedings of the final review conference. If a transcript is requested, the applicant, permittee, licensee, or affected person making the request is responsible for all costs.

(G) An applicant, permittee, licensee, or affected person may file a request with the Administrative Law Court for a contested case hearing within thirty calendar days after:

(1) notice is mailed to the applicant, permittee, licensee, and affected persons that the board declined to hold a final review conference; or

(2) the sixty calendar day deadline to hold the final review conference lapses and no conference has been held; or

(3) the final agency decision resulting from the final review conference is received by the parties.

(H) Applicants, permittees, licensees, and affected persons are encouraged to engage in mediation during the final review process.

(I) The department may promulgate regulations providing for procedures for final reviews.

(J) Any statutory deadlines applicable to permitting and licensing programs administered by the department must be extended to all for this final review process.

(E) If any a deadline provided for in this section falls on a Saturday, Sunday, or state holiday, the deadline must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

Section 44-1-65. (A) In making a staff decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 44-1-60(D), or if the department conducts a final review conference related to a decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 44-1-60(F), the department shall base its decision solely on whether the permit complies with the applicable department regulations governing the permitting of poultry and other animal facilities, other than swine facilities.

(B) For purposes of permitting, licensing, certification, or other approval of a poultry facility or another animal facility, other than a swine facility:

(1) only an applicant, permittee, licensee, or affected person may request a final review conference pursuant to Section 44-1-60(F);

(2) only an affected person may request a contested case hearing pursuant to Section 44-1-60(G);

(3) only an applicant, permittee, licensee, or affected person may become a party to a final review conference;

(4) only an affected person may become a party to a contested case hearing; and

(5) only an applicant, permittee, licensee, or affected person is entitled as of right to be admitted as a party pursuant to Section 1-23-310(5) of the Administrative Procedures Act.

~~(C)(1) In determining whether to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, the department only may take into consideration the existing development on and use of property owned or occupied by an affected person on the date the department receives the applicant's complete application package as prescribed by regulation. The department must not take into consideration any changes to the development or use of property after receipt of the application, including, but not limited to, the construction of a residence.~~

~~(2) If a property owner signs a setback waiver of the right to contest the issuance of a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, including waiver of the right to notice and a public hearing on a permit, license, certification, or other approval and to file a contested case or other action, then the affected person has seventy-two hours to provide in writing a withdrawal or rescission of the waiver.~~

~~(D)(1) An applicant, permittee, licensee, or affected person who has exhausted all administrative remedies within the department relating to a decision to issue or deny a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, and who is aggrieved by a final decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.~~

~~(2) Notwithstanding any other provision of law, a final decision to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may not be contested if the proposed building footprint is located eight hundred feet or more from the facility owner's property line or located one thousand feet or more from an adjacent property owner's residence.~~

~~(E) For purposes of this section, "affected person" means a property owner with standing within a one-mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities.~~

Section 44-1-70. All ~~rules and regulations promulgated by the Board~~ department shall be null and void unless approved by a concurrent resolution of the General Assembly at the session of the General Assembly following their promulgation.

Article 3

Division of Public Health

Section 44-1-75. There is established the Division of Public Health within the Department of Public and Behavioral Health. The division shall be vested with all the public health-related functions, powers, and duties of the divisions, offices, and programs of the Department of Health and Environmental Control on the effective date of this act.

~~Section 44-1-80. (A) The Board of Health and Environmental Control~~ Department of Public and Behavioral Health or its designated agents must investigate the reported causes of communicable or epidemic disease and must enforce or prescribe these preventive measures as may be needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as may be necessary to protect the citizens of the State. ~~The Board of Health and Environmental Control~~ department or its designated agents shall declare, when the facts justify it, any place as infected and, in case of hydrophobia or other diseases transmitted from animals to man, must declare such animal or animals quarantined, and must place all such restrictions upon ingress and egress of persons or animals therefrom as may be, in its judgment, necessary to prevent the spread of disease from the infected locality.

(B)(1) Whenever the ~~board~~ department learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to cause a public health emergency, as defined in Section 44-4-130, it is authorized to notify the appropriate public safety authority, tribal authorities, and federal health and public safety authorities.

(2) The sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between authorized personnel must be restricted to information necessary for the treatment, control, investigation, and prevention of a public health emergency. Restriction of access to this information to those authorized personnel for the protection of public health ensures compliance with all state and federal health information privacy laws.

(3) The ~~board~~ department and its agents ~~must~~ shall have full access to medical records and nonmedical records when necessary to investigate the causes, character, and means of preventing the spread of a qualifying health event or public health emergency. For purposes of this item, 'nonmedical records' ~~mean~~ means records of entities, including businesses,

health facilities, and pharmacies, which are needed to adequately identify and locate persons believed to have been potentially exposed or known to have been infected with a contagious disease.

(4) An order of the ~~board~~ department given to effectuate the purposes of this subsection is enforceable immediately by the public safety authority.

(5) For purposes of this subsection, the terms qualifying health event, public health emergency, and public safety authority have the same meanings as provided in Section 44-4-130.

Section 44-1-90. The ~~State Board of Health and Environmental Control~~ Department of Public and Behavioral Health or its designated agents, when it is deemed necessary by the municipal officers of any town or city or the governing body of any county, may (a) visit cities, towns, villages, or localities where disease is prevalent or threatened, (b) investigate and advise with the local authorities or persons as to such measures as may tend to prevent the spread of disease or to remove or abate causes that may tend to cause or intensify disease, (c) advise, when practicable or possible, as to measures of sanitation or hygiene, and (d) investigate and advise as to all matters respecting water supply, sewage, drainage, ventilation, heating, lighting, or other measures connected with public sanitation or safety.

Section 44-1-100. All sheriffs and constables in the several counties of this State and police officers and health officers of cities and towns must aid and assist the Director of the ~~Department of Health and Environmental Control~~ Division of Public Health and must carry out and obey his orders, or those of the ~~Department of Health and Environmental Control~~ division, to enforce and carry out any and all restrictive measures and quarantine regulations that may be prescribed. During a state of public health emergency, as defined in Section 44-4-130, the director may request assistance in enforcing orders issued pursuant to this chapter and pursuant to Chapter 4, Title 44, from the public safety authority, as defined in Section 44-4-130, other state law enforcement authorities, and local law enforcement. The public safety authority may request assistance from the South Carolina National Guard in enforcing orders made pursuant to this chapter or pursuant to Chapter 4, Title 44.

Section 44-1-110. (A) The ~~Department of Health and Environmental Control~~ Public and Behavioral Health is invested with all the rights and charged with all the duties pertaining to organizations of like character and is the sole advisor of the State in all questions involving the protection of the public health within its limits.

(B) ~~It shall~~ The department, through its representatives, shall investigate the causes, character, and means of preventing the epidemic and endemic diseases as the State is liable to suffer from and the influence of climate, location, and occupations, habits, drainage, scavenging, water supply, heating, and ventilation. It ~~shall have~~ has, upon request, full access to the medical records, tumor registries, and other special disease record systems maintained by physicians, hospitals, and other health facilities as necessary to carry out its investigation of these diseases. No physician, hospital, or health facility, or person in charge of these records is liable in any action-at-law for permitting the examination or review. Patient-identifying information elicited from these records and registries must be kept confidential by the department, and ~~it~~ the information is exempt from the provisions of Chapter 4, of Title 30. ~~It~~ The department shall supervise and control the quarantine system of the State. ~~It~~ and may establish quarantine both by land and sea.

Section 44-1-130. The ~~Department of Health and Environmental Control~~ Public and Behavioral Health may divide the State into health districts and establish in these districts advisory boards of health which shall consist of representatives from each county in the district. Boards of health now existing in the districts shall have representation on the district advisory board. Counties not having local boards of health ~~shall~~ must be represented by individuals appointed by the county legislative delegation. The number of members of a district advisory board ~~shall~~ must be determined by the department with due consideration to the population and community needs of the district. District advisory boards of health ~~shall be~~ are subject to the supervisory and advisory control of the department. District advisory boards are charged with the duty of advising the district medical director or administrator in all matters of sanitary interest and scientific importance bearing upon the protection of the public health. The district medical director or administrator ~~shall be~~ is the secretary of the advisory board, and the district advisory board shall elect annually from its membership a chairman.

Section 44-1-140. The ~~Department of Health and Environmental Control~~ Public and Behavioral Health may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) ~~For the thorough sanitation and disinfection of all passenger cars, sleeping cars, steamboats and other vehicles of transportation in this State and all convict camps, penitentiaries, jails, hotels, schools and other places used by or open to the public;~~

(2) For the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, and all other places or establishments providing eating or drinking facilities and all other places known as private nursing homes or places of similar nature, operated for gain or profit;

(3) For the production, storing, labeling, transportation, and selling of milk and milk products, filled milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic milk products, milk derivatives and any other products made in semblance of milk or milk products;

(4) For the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other business, and bottling plants;

(5) For the classification of waters and for the safety and sanitation in the harvesting, storing, processing, handling and transportation of mollusks, fin fish and crustaceans;

(6) For the control of disease-bearing insects, including the impounding of waters;

(7)(1) For the safety, safe operation and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs;

(8) For the control of industrial plants, including the protection of workers from fumes, gases and dust, whether obnoxious or toxic;

(9) For the use of water in air humidifiers;

(10)(2) For the care, segregation and isolation of persons having or suspected of having any communicable, contagious, or infectious disease; and

(11) For the regulation of the methods of disposition of garbage or sewage and any like refuse matter in or near any village, town or city of the State, incorporated or unincorporated, and to abate obnoxious and offensive odors caused or produced by septic tank toilets by prosecution, injunction or otherwise;

(12)(3) For the thorough investigation and study of the causes of all diseases, epidemic and otherwise, in this State, the means for the prevention of contagious disease and the publication and distribution of such information as may contribute to the preservation of the public health and the prevention of disease; and

(13) For alteration of safety glazing material standards and the defining of additional structural locations as hazardous areas, and for notice and hearing procedures by which to effect these changes.

(B) The department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances conditions dangerous to the public health and communicable, contagious and infectious diseases, and other danger to the public life and health.

Section 44-1-143. (A) For the purposes of this section:

(1) 'Home-based food production operation' means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.

(2) 'Nonpotentially hazardous foods' are candy and baked goods that are not potentially hazardous foods.

(3) 'Person' means an individual consumer.

(4) 'Potentially hazardous foods' includes:

(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic in oil mixtures not modified to prevent microorganism growth or toxin formation;

(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:

	Aw values		pH values	
	<0.92	>0.92-0.95	>4.6-5.6	>5.6
(1)	non-PHF	non-PHF	non-PHF	non-PHF
(2)	non-PHF	non-PHF	PHF	PHF
(3)	non-PHF	non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:

(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;

(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;

(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;

(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: 'NOT FOR RESALE — PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS.'

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

Section 44-1-145. (A) Notwithstanding any other provision of law, ground beef or any food containing ground beef prepared by a food service provider for public consumption must be cooked to heat all parts of the food to at least one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), unless otherwise ordered by the immediate consumer.

(B) The food service provider, its business or its employees or agents, are not liable for any adverse affects to the purchaser or anyone else for providing a ground beef product cooked at an internal temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), if providing the product is at the request of the purchaser and if the food service provider has notified the purchaser in advance that a possible health risk may exist by eating the product. The notice must state that a possible health risk may exist in eating undercooked ground beef at an internal temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), and be given to the purchaser:

- (1) in writing;
- (2) as stated on the menu; or
- (3) by visible sign warning.

(C) ~~In order for an immediate consumer or purchaser, as used in this section, to request or order ground beef to be cooked to a temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), the individual must be eighteen years of age or older.~~

~~Section 44-1-148. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer.~~

Section 44-1-150. (A) ~~Except as provided in Section 44-1-151, a~~ A person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Health and Environmental Control Public and Behavioral Health, made by the department pursuant to Section 44-1-140, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to Section 44-1-140 is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term 'notice' as used in this section means either actual notice or constructive notice.

(E) ~~This section does not apply to fines levied under Section 44-1-140(8) or any other areas regulated by the South Carolina Occupational Health and Safety Act, Section 41-12-10 et seq.~~

Section 44-1-151. Notwithstanding any other provision of law, all shellfish involved in any violation of law, including any regulation, regarding shellfish may be confiscated and disposed of at the discretion of the arresting officer. Any person convicted of a second offense of harvesting shellfish in any polluted area shall, upon such conviction, be fined not less than two hundred dollars and not more than five hundred dollars or imprisoned for not less than thirty days and not more than sixty days. Any person convicted of a third or subsequent offense of harvesting shellfish in any polluted area shall, upon such conviction, be fined not less than five hundred dollars and not more than one thousand or imprisoned for not less than sixty days and not more than ninety days. All equipment, including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a first offense of harvesting shellfish in any polluted area, may be impounded at the discretion of the arresting officer. The equipment impounded shall be delivered to the sheriff of the county in which the arrest was made and shall be retained by the sheriff. Such equipment may not be returned to the owner until the case has been finally disposed of. All equipment, including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a second, third, or subsequent offense of harvesting shellfish in any polluted area, shall be confiscated. All such confiscated equipment shall be sold at auction by the sheriff of the county in which such second, third, or subsequent offense took place and by a representative of the State Department of Health and Environmental Control, except for weapons, which, following confiscation, shall be disposed of in the manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.

Section 44-1-152. Notwithstanding any other provision of law, all revenue from any fine or any forfeiture of bond for any violation of any shellfish law or regulation provided by this title must be deposited monthly with the treasurer of the county in which the arrest for such violation was made. One third of such revenue must be retained by the county treasurer to be used for the general operating needs of the county pursuant to the direction of the governing body of the county. Two thirds of such revenue must be remitted quarterly to the state Department of Health and Environmental Control of which one half is to be used in enforcing shellfish laws and regulations and one half of such revenue must be remitted quarterly to the state's general fund. All monies derived from auction sales of confiscated equipment pursuant to Section 44-1-151 must be deposited, retained, remitted, and used in the same manner as provided in this section for all revenue derived from any fine or any violation of any shellfish law or regulation. A report of fines for forfeitures of bonds regarding shellfish violations must be sent to the state Department of Health and Environmental Control monthly by each magistrate and clerk of court in this State. A report of monies derived from auction of sales of confiscated equipment must be sent to the state Department of Health and Environmental Control monthly by each sheriff.

~~Section 44-1-155. When any person is apprehended by a shellfish patrolman upon a charge of violating the health and sanitary aspects of shellfish, crab, and shrimp laws or regulations, such person upon being served with a summons by the patrolman may in lieu of being immediately brought before the proper judicial officer enter into a formal recognizance or deposit a proper sum of money in lieu of a recognizance or incarceration with the patrolman as bail which shall be not less than the minimum nor more than the maximum fine, but in no case to exceed one hundred dollars. The bail shall be turned over to the proper judicial officer. A receipt for the sum so deposited shall be given to the person by the patrolman. The summons duly served shall give the judicial officer jurisdiction to dispose of the matter. Upon receipt of bail the patrolman shall release the person so charged and he may appear in court at the time stated in and required by the summons.~~

~~Section 44-1-160. Nothing contained in Section 44-1-140 shall in any way abridge or limit abridges or limits the right of any a person to maintain or prosecute any ~~proceedings, civil or criminal~~, a civil or criminal proceeding against a person maintaining a nuisance.~~

~~Section 44-1-165. (A) There is established within the Department of Health and Environmental Control the Expedited Review Program to provide an expedited process for permit application review. Participation in this program is voluntary and the program must be supported by expedited review fees promulgated in regulation pursuant to subsection (B)(1). The department shall determine the project applications to review, and the process may be applied to any one or all of the permit programs administered by the department.~~

~~(B)(1) Before January 1, 2009, the department shall promulgate regulations necessary to carry out the provisions of this Section. The regulations shall include, but are not limited to, definitions of 'completeness' for applications submitted, consideration of joint federal-state permitting activities, standards for applications submitted that advance environmental protection, and expedited process application review fees.~~

~~(2) Regulations promulgated pursuant to this Section must not alter public notice requirements for any permits, certifications, or licenses issued by the department.~~

~~(C) Until such time as regulations are promulgated pursuant to subsection (B), the department shall conduct a pilot expedited review program to determine the most environmentally sound, cost efficient, and economically beneficial process for implementation of a statewide expedited review program. The department shall determine which permit programs, or subcomponents of a program, to include in the pilot program and also may establish pilot program expedited process application fees.~~

~~(D) There is created the Expedited Review Fund that is separate and distinct from the general fund of the State and all other funds. Fees established in regulation pursuant to subsection (B)(1) and assessed pursuant to subsection (C) must be credited to the fund and used for the costs of implementing the expedited review program. Interest accruing to the fund must be retained by the fund and used for the same purposes. Revenue in the fund not expended during a fiscal year, including fees generated pursuant to subsection (C), must be carried forward to the succeeding fiscal year and must be used for the same purposes.~~

~~(E) No later than January 1, 2008, the department shall report to the Board of Health and Environmental Control the department's findings on the implementation of the pilot expedited review program provided for in subsection (C).~~

~~Section 44-1-170. The Department of Health and Environmental Control Division of Public Health may direct and supervise the action of the local boards of health in incorporated cities and towns and in all townships in all matters pertaining to such these local boards.~~

~~Section 44-1-180. The Department of Health and Environmental Control Public and Behavioral Health may establish charges for maintenance and medical care for all persons served in state health centers and other health facilities under the jurisdiction of the department and by personnel of the department and of the health units under its jurisdiction in homes and any other places where health services are needed. The terms 'medical care' and 'health services' include the services of physicians, dentists, optometrists, nurses, sanitarians, physical therapists, medical social workers, occupational therapists, health aides, speech therapists, X-ray technologists, dietitians, nutritionists, laboratory technicians, and other professional and subprofessional health workers. The charges, which may be adjusted from time to time, shall must be reasonable and based on the total costs of the services rendered, including operating costs, depreciation costs, and all other elements of costs.~~

~~Section 44-1-190. The Department of Health and Environmental Control Public and Behavioral Health shall make such investigations as it deems necessary to determine which persons or which of the parents, guardians, trustees, committees,~~

or other persons or agencies legally responsible therefor are financially able to pay the expenses of the care and treatment, and may contract with any person or agency for the care and treatment of any person to the extent permitted by the resources available to the department. The department may require any county or state agency to furnish information which would be helpful to it in making the investigations. In arriving at the amount to be charged, the department shall have due regard for the financial condition and estate of the person, his present and future needs and the present and future needs of his lawful dependents, and whenever considered necessary to protect him or his dependents, may agree to accept a sum less than the actual cost of services. ~~No~~ A person shall ~~may not~~ be deprived of available health services solely because of inability to pay. ~~No fees shall~~ A fee must not be charged for services which in the judgment of the department should be made freely available in order to protect and promote the public health.

Section 44-1-200. The Department of ~~Health and Environmental Control~~ Public and Behavioral Health may provide home health services to those persons living in areas of the State in which adequate home health services are not available and may charge fees for such services. Home health services ~~shall~~ must include care of the ill and disabled rendered at home including, but not limited to, bedside care, treatment, and rehabilitation services. In order that it may provide such services, the department may employ the necessary personnel, including nurses, physical therapists, speech therapists, occupational therapists, medical social workers, home health aides, nutritionists, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program. The department shall, wherever possible, assist and advise nonprofit agencies or associations in the development of home health services programs and may enter into agreements with such agencies or associations specifying the type of assistance and advice it will provide.

Section 44-1-210. All fees and charges collected pursuant to Sections 44-1-180 to 44-1-200, including vital statistics fees as now provided by law, ~~shall~~ must be deposited in the State Treasury and ~~shall~~ must be used in the operation of the public health program of the bureau, division, district health unit, or local county health department which performed the services for which the fees and charges were collected. An annual report ~~shall~~ must be made to the ~~State Budget and Control Board~~ Department of Administration of the receipts and expenditures made under the provisions of Sections 44-1-180 to 44-1-200.

Section 44-1-215. Notwithstanding Section 13-7-85, the Department of ~~Health and Environmental Control~~ Public and Behavioral Health may retain all funds generated in excess of those funds remitted to the general fund in ~~fiscal year~~ Fiscal Year 2000-2001 from fees listed in Regulation R61-64 Title B.

Section 44-1-220. All skilled and intermediate care nursing facilities licensed by the Department of ~~Health and Environmental Control~~ Public and Behavioral Health ~~shall~~ must be required to furnish an item-by-item billing for all charges to the patient or the person paying ~~such~~ the bill, upon request by ~~such~~ the patient or person. Items which remain unpaid are not required to be itemized again. ~~Such requests~~ A request for itemized billing ~~shall remain~~ remains in effect until further notification by the patient or person paying ~~such~~ the bill. Provided, that the provision herein ~~shall~~ does not apply to the contracted amount of a state or federal agency. Any amount above ~~such~~ a contract ~~shall~~ must be itemized as provided herein.

Section 44-1-230. The Department of ~~Health and Environmental Control~~ Public and Behavioral Health shall give consideration to any benefits available to an individual, including private, group, or other insurance benefits, to meet, in whole or in part, the cost of any medical or health services. ~~Such benefits shall~~ Benefits must be utilized insofar as possible; provided, however, the availability of ~~such~~ benefits ~~shall~~ must not be the sole basis for determining eligibility for program services of the department. Insurance carriers ~~shall~~ must not deny payment of benefits otherwise available to the insured solely on the basis that an individual has applied for, or has been deemed eligible to receive, or has received, services, or on the basis that payments have been made for services by the department.

Section 44-1-260. Upon conducting an early periodic screening, diagnosis, and treatment screening (EPSDT), or another physical examination of a child from which it is determined that the child may benefit from the use of assistive technology, the department or person conducting the screening or examination may refer the child to an appropriate agency for an assistive technology evaluation. For purposes of this section, 'assistive technology' means a device or service which is used to increase, maintain, or improve the functional capacities of an individual with a disability. An 'assistive technology device' is ~~means~~ an item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capacities of an individual with a disability including, but not limited to, aids for daily living, augmentative communication devices, wheelchairs, and mobility aids,

seating and positioning aids, computer aids, environmental controls, home and workplace modifications, prosthetics and orthotics, or aids for vision or hearing impairments. An 'assistive technology service' is means a service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

~~Section 44-1-280. The Board and Department of Health and Environmental Control~~ Department of Public and Behavioral Health in establishing priorities and funding for programs and services which impact on children and families during the first years of a child's life, within the powers and duties granted to it, must support, as appropriate, the South Carolina First Steps to School Readiness initiative, as established in ~~Title 59, Chapter 152~~ Chapter 152, Title 59, at the state and local levels.

~~Section 44-1-290. A corporation or person whose only purpose is furnishing, supplying, marketing, or selling treated effluent for irrigation purposes, shall not be considered a public utility for purposes of Title 58 by virtue of the furnishing, supplying, marketing, or selling of the treated effluent, provided that the effluent has not been permitted for consumption by the department or other regulatory agency.~~

~~Section 44-1-300. The department shall not use any funds appropriated or authorized to the department to enforce Regulation 61-25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.~~

Section 44-1-310. (A) The Department of Public and Behavioral Health and Environmental Control shall establish a Maternal Morbidity and Mortality Review Committee to review maternal deaths and to develop strategies for the prevention of maternal deaths. The committee must be multidisciplinary and composed of members deemed appropriate by the department. The committee also may review severe maternal morbidity. The department may contract with an external organization to assist in collecting, analyzing, and disseminating maternal mortality information, organizing and convening meetings of the committee, and performing other tasks as may be incident to these activities, including providing the necessary data, information, and resources to ensure successful completion of the ongoing review required by this section.

(B) The State Registrar shall provide the following necessary data from death certificates of women who died within a year of pregnancy to the department staff for review to assist in identifying maternal death information:

- (1) name;
- (2) date and time of death;
- (3) state and county of residence;
- (4) date of birth;
- (5) marital status;
- (6) citizenship status;
- (7) United States armed forces veteran status;
- (8) educational background;
- (9) race and ethnicity;
- (10) date and time of injury;
- (11) place of injury;
- (12) location where injury occurred;
- (13) place of death (facility name and/or address);
- (14) manner of death;
- (15) whether an autopsy was performed and findings available as to the cause of death;
- (16) whether tobacco contributed to death;
- (17) primary and contributing causes of death.

(C) The State Registrar shall provide the following necessary data from birth certificates or fetal death reports linked to the woman for whom data from the death certificate was provided pursuant to subsection (B), where available, to department staff for review to assist in identifying maternal death information:

- (1) medical record number;
- (2) date of delivery;
- (3) location of event;
- (4) name of mother;
- (5) mother's date of birth;

- (6) mother's race and ethnicity;
- (7) mother's pregnancy history;
- (8) mother's height and weight;
- (9) date of last normal menstrual period;
- (10) date of first prenatal visit;
- (11) number of prenatal visits;
- (12) plurality;
- (13) use of WIC during pregnancy;
- (14) delivery payment method;
- (15) cigarette smoking before and during pregnancy;
- (16) risk factors during pregnancy;
- (17) infections present or treated during pregnancy;
- (18) onset of labor;
- (19) obstetric procedures;
- (20) characteristics of labor and delivery;
- (21) maternal morbidity.

(D) The department must not disclose any information collected under this section that would identify the mother or baby with anyone outside the department, including the committee. Identifying information includes, but may not be limited to, names, addresses more specific than the county of residence, medical record numbers, and dates and times of birth or death.

(E) The department, or its representatives, on behalf of the committee, shall:

- (1) extract necessary data elements from death certificates and birth certificates or fetal death reports, as applicable, and provide de-identified information to the committee for its review and consideration;
- (2) review and abstract medical records and other relevant data;
- (3) contact family members and other affected or involved persons to collect additional data.

(F) The committee shall:

- (1) review information and records provided by the department;
- (2) determine whether maternal death cases reviewed are pregnancy related, as defined as a death within one year of the pregnancy with a direct or indirect causation related to the pregnancy or postpartum period;
- (3) consult with relevant experts to evaluate the records and data;
- (4) make determinations regarding the preventability of maternal deaths;
- (5) develop recommendations for the prevention of maternal deaths; and
- (6) disseminate findings and recommendations pursuant to subsection (J).

(G)(1) Health care providers and pharmacies licensed pursuant to Title 40 shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant medical records associated with a case under review by the committee.

(2) A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this subsection are not liable for civil damages or subject to criminal or disciplinary action for good faith efforts in providing the records.

(3) Coroners and law enforcement shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant records associated with a case under review by the committee.

(H)(1) Information, records, reports, statements, notes, memoranda, or other data collected pursuant to this section are not admissible as evidence in any action of any kind in any court or before another tribunal, board, agency, or person. The information, records, reports, statements, notes, memoranda, or other data must not be exhibited nor their contents disclosed, in whole or in part, by an officer or a representative of the department or another person, except as necessary for the purpose of furthering the review of the committee of the case to which they relate. A person participating in a review may not disclose the information obtained except in strict conformity with the review project.

(2) All information, records of interviews, written reports, statements, notes, memoranda, or other data obtained by the department, the committee, and other persons, agencies, or organizations authorized by the department pursuant to this section are confidential.

(I)(1) All proceedings and activities of the committee, opinions of members of the committee formed as a result of the proceedings and activities, and records obtained, created, or maintained pursuant to this section, including records of interviews, written reports, and statements procured by the department or another person, agency, or organization acting jointly or under contract with the department in connection with the requirements of this section, are confidential and are

not subject to the provisions of Chapter 4, Title 30 relating to open meetings or public records, or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. However, this section must not be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the committee's proceedings.

(2) Members of the committee must not be questioned in a civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. However, this section must not be construed to prevent a member of the committee from testifying to information obtained independently of the committee or which is public information.

(J) Reports of aggregated nonindividually identifiable data for the previous calendar year must be compiled and disseminated by March first of the following year in an effort to further study the causes and problems associated with maternal deaths. Reports must be distributed to the General Assembly, the Director of the Department of Public and Behavioral Health and Environmental Control, health care providers and facilities, key governmental agencies, and others necessary to reduce the maternal death rate.

(K) Members shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(L) The department shall apply for and use any available federal or private monies to help fund the costs associated with implementing the provisions of this section.

Section 44-1-315. (A) For purposes of the section, "impacted location" means any facility issued or otherwise subject to a permit, license, or approval from the North Carolina Department of Environment and Natural Resources that has now been determined to be located within the jurisdiction of the South Carolina Department of Health and Environmental Control as a result of the amendments to Section 1-1-10, effective January 1, 2017.

(B) Notwithstanding any other provision of law, the South Carolina Department of Health and Environmental Control, in issuing any environmental permit, license, or approval to an impacted location shall provide a schedule of compliance that allows the permittee a reasonable period of time to be no greater than five years to come into compliance with any South Carolina environmental rule, regulation, or standard established by the department or by law that has no corresponding rule, regulation, or standard under North Carolina law or regulation, or is more stringent than the corresponding rule, regulation, or standard established under North Carolina law or regulation. The department may include increments of progress applicable in each year of the schedule established under this subsection, and may shorten the period of compliance as necessary to prevent an imminent threat to the public health and environment. The department may extend a permittee's compliance schedule under this section beyond five years upon written application by the permittee only if the department determines that circumstances reasonably require such an extension, and the extension of time would pose no threat to public health or the environment."

SECTION 3. Chapter 9, Title 44 of the 1976 Code is amended to read:

"CHAPTER 9

State Department Division of Mental Health,
Department of Public and Behavioral Health

Section 44-9-10. There is hereby created the State Department Division of Mental Health within the Department of Public and Behavioral Health which shall have jurisdiction over all of the state's mental hospitals, clinics and centers, joint state and community sponsored mental health clinics and centers, and facilities for the treatment and care of alcohol and drug addicts, including the authority to name each facility.

Section 44-9-20. All the powers and duties vested in the South Carolina Mental Health Commission immediately prior to before March 26, 1964, are hereby transferred to and vested in the Division of Mental Health, Department of Mental Health Public and Behavioral Health. All records, files, and other papers belonging to the South Carolina Mental Health Commission shall must be continued as part of the records and files of the Department Division of Mental Health, Department of Public and Behavioral Health.

~~Section 44-9-30. (A)(1) There is created the governing board for the State Department of Mental Health known as the South Carolina Mental Health Commission. The commission shall consist of seven members, one from each congressional district, appointed by the Governor, upon the advice and consent of the Senate.~~

~~(2) The Governor shall consider consumer and family representation when appointing members.~~

~~(B) The members serve for terms of five years and until their successors are appointed and qualify. The terms of no more than two members may expire in one year. The Governor may remove a member pursuant to the provisions of Section 1-3-240. A vacancy must be filled by the Governor for the unexpired portion of the term.~~

~~(C) The commission shall determine policies and promulgate regulations governing the operation of the department and the employment of professional and staff personnel.~~

~~(D) The members shall receive the same subsistence, mileage, and per diem provided by law for members of state boards, committees, and commissions.~~

Section 44-9-40. The ~~Mental Health Commission~~ Director of the Department of Public and Behavioral Health shall appoint and remove a state director of Mental Health, who is chief executive of the State Department of Mental Health ~~the Director of the Division of Mental Health~~. Subject to the supervision and control of the Mental Health Commission, The state division director shall administer the policies and regulations established by the commission ~~of the department~~. The division director must be a person of proven executive and administrative ability with appropriate education and substantial experience in the field of mental illness treatment. The director must appoint and remove all other officers and employees of the Department of Mental Health, subject to the approval of the Mental Health Commission.

Section 44-9-50. The ~~Department~~ Division of Mental Health may be divided into such ~~divisions~~ subdivisions as may be authorized by the Director of Mental Health and approved by the commission ~~the Department of Public and Behavioral Health~~. One of the divisions must be a Division on Alcohol and Drug Addiction which shall have primary responsibility in the State for treatment of alcohol and drug addicts. One of the divisions subdivisions must be a ~~Division~~ the Office for Long Term Care which shall have has primary responsibility for care and treatment of elderly persons with mental and physical disabilities to the extent that their needs are not met in other facilities either public or private.

Section 44-9-60. The director of the ~~Department of Mental Health~~ Director of the Department of Public and Behavioral Health may appoint a director of each hospital. Each director must be knowledgeable in the treatment of the mentally ill and in hospital administration. The director of each hospital under the jurisdiction of the Department of ~~Mental Health~~ Public and Behavioral Health is responsible for the employment of all personnel at the hospital, subject to the approval of the director of the department. The director of the ~~department~~ division may serve as director of one or more hospitals or other mental health facilities.

Section 44-9-70. The ~~State department of Mental Health~~ Department of Public and Behavioral Health is hereby designated as the state's mental health authority for purposes of administering federal funds allotted to South Carolina under the provisions of the National Mental Health Act, as amended. The ~~State department~~ Division of Mental Health is further designated as the state agency entity authorized to administer minimum standards and requirements for mental health clinics as conditions for participation in federal-state grants-in-aid under the provisions of the National Mental Health Act, as amended, and is authorized to promote and develop community mental health outpatient clinics. Provided, that nothing in this article shall may be construed to prohibit the operation of outpatient mental health clinics by the South Carolina Medical College Medical University of South Carolina Hospital in Charleston. Provided, further, that nothing herein shall be construed to include any of the functions or responsibilities now granted the Department of Health and Environmental Control, or the administration of the State Hospital Construction Act (Hill Burton Act), as provided in the 1976 Code of Laws and amendments thereto.

Section 44-9-80. Payments made to a mental health facility which are derived in whole or in part from federal funds which become available after June 30, 1967, and which are provided with the stipulation that they be used to improve services to patients shall are not be considered fees from paying patients under the terms of Act No. 1100 of 1964 but may be utilized by the ~~State department~~ Division of Mental Health to improve South Carolina's comprehensive mental health program.

Section 44-9-90. The ~~commission~~ Division of Mental Health shall:

~~(1) form a body corporate in deed and in law with all the powers incident to corporations;~~

- ~~(2)~~(1) cooperate with persons in charge of ~~penal~~ correctional institutions in this State for the purpose of providing proper care and treatment for mental patients confined in ~~penal~~ these institutions because of emergency;
- ~~(3)~~(2) inaugurate and maintain an appropriate mental health education and public relations program;
- ~~(4)~~(3) collect statistics bearing on mental illness, drug addiction, and alcoholism;
- ~~(5)~~(4) provide vocational training and medical treatment which must tend to the mental and physical betterment of patients and which is designed to lessen the increase of mental illness, drug addiction, and alcoholism;
- ~~(6)~~(5) encourage the directors of hospitals and their medical staffs in the investigation and study of these subjects and of mental health treatment in general; and
- ~~(7)~~(6) provide a statewide system for the delivery of mental health services to treat, care for, reduce, and prevent mental illness and provide mental health services for citizens of this State, whether or not in a hospital. The system must include services to prevent or postpone the commitment or recommitment of citizens to hospitals.

Section 44-9-100. The ~~commission~~ Department of Public and Behavioral Health may:

- (1) prescribe the form of and information to be contained in applications, records, reports, and medical certificates provided for under this chapter, Chapter 11, Chapter 13, Article 1-~~of~~, Chapter 15, Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52;
- (2) require reports from the director of a state hospital relating to the admission, examination, diagnosis, discharge, or conditional discharge of a patient;
- (3) investigate complaints made by a patient or by a person on behalf of a patient;
- (4) adopt regulations not inconsistent with this chapter, Chapter 11, Chapter 13, Article 1-~~of~~, Chapter 15, Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52 as it may find to be reasonably necessary for the government of all institutions over which it has authority and of state mental health facilities and the proper and efficient treatment of persons with a mental illness or substance abuse disorder;
- (5) take appropriate action to initiate and develop relationships and agreements with state, local, federal, and private agencies, hospitals, and clinics as the ~~commission~~ director considers necessary to increase and enhance the accessibility and delivery of emergency and all other types of mental health services.

Section 44-9-110. The ~~Mental Health Commission~~ director may accept on behalf of the ~~Department of Mental Health Public and Behavioral Health~~ or any of its facilities or services, gifts, bequests, devises, grants, donations of money or real and personal property of whatever kind, but ~~no such a~~ gift or grant ~~shall may not~~ be accepted upon the condition that it ~~shall~~ diminish an obligation due the department. The ~~Commission~~ director may refuse to accept ~~any such~~ this gift or grant and the acceptance of ~~any such~~ this gift or grant ~~shall may not~~ incur ~~any an~~ obligation on the part of the State. ~~Any A~~ gift or grant given to a specific facility or service ~~shall must~~ be used for that facility or service only, or to its successor. The ~~Commission~~ department may promulgate ~~rules and~~ regulations governing the disposition of ~~such these~~ gifts and grants.

Section 44-9-120. The ~~Commission~~ director shall submit an annual report to the Governor ~~before the eleventh day of~~ by January eleventh of each year setting forth its activities, the financial affairs, and the state and condition of the state mental health facilities and ~~any~~ other statistical information which is usually required of facilities of the type over which it has charge. The report shall include ~~any~~ recommendations ~~which that~~ in the opinion of the ~~Commission~~ director will improve the mental health program of the State. A copy of the report ~~shall also~~ must be submitted to the General Assembly.

Section 44-9-160. ~~Wherever in~~ In the 1976 Code when reference is made to the State Hospital, it ~~shall mean~~ means a state hospital; wherever reference is made requiring the signature of the superintendent of any mental health facility, it ~~shall mean~~ means the director or superintendent or his designee; and wherever reference is made to the State Commissioner of Mental Health, it ~~shall mean~~ means the State Director of the Department of ~~Mental Health~~ Public and Behavioral Health."

SECTION 4. Chapter 49, Title 44 of the 1976 Code is amended to read:

"CHAPTER 49

Department Division of Alcohol and Other Drug Abuse Services,
Department of Public and Behavioral Health

Section 44-49-10. (A) There is established the ~~Department~~ Division of Alcohol and Other Drug Abuse Services within the Department of Public and Behavioral Health. ~~The department shall be~~ Division of Alcohol and Other Drug Abuse Services is vested with all the functions, powers, and duties, of the ~~South Carolina Commission on Alcoholism and the South Carolina Commission on Alcohol and Drug Abuse~~ Department of Alcohol and Other Drug Abuse Services related to the delivery of services and shall have full authority for formulating, coordinating, and administering the state plans for controlling narcotics and controlled substances and alcohol abuse and for providing treatment to people with alcohol and drug addictions.

(B) All functions, powers, and duties of the former commissioner of the narcotics and controlled substances section of the former State Planning and Grants Division (Division of Administration in the Office of the Governor) are hereby transferred to the ~~department~~ division, except those powers and duties related to the traffic of narcotics and controlled substances as defined in Section 44-53-130 which ~~shall be~~ are vested in the State Law Enforcement Division.

(C) All ~~rules and~~ regulations promulgated by the ~~commissioner of narcotics and controlled substances~~ Department of Alcohol and Other Drug Abuse Services shall remain in effect until changed by the ~~department~~ Department of Public and Behavioral Health.

(D) The ~~department~~ Department of Public and Behavioral Health is authorized to establish a block grant mechanism to provide such monies as may be ~~appropriated by the Legislature~~ disbursed to the department for this purpose to each of the agencies designated under Section 61-12-20(a). The distribution of these monies must be on a per capita basis according to the most recent United States Census. The agencies designated under Section 61-12-20(a) must expend any funds received through this mechanism in accordance with the county plans required under Section 61-12-20(b).

(E) The department is authorized to develop ~~such~~ rules and regulations not inconsistent with the provisions of this chapter as it may find to be reasonably appropriate for the government of the county plans called for in Section 61-12-20(b), and the financial and programmatic accountability of funds provided under this section and all other funds provided by the department to agencies designated under Section 61-12-20(a).

Section 44-49-20. The ~~Department~~ Division of Alcohol and Other Drug Abuse Services ~~shall~~ must be headed by a director appointed by the Governor, ~~upon the advice and consent of the Senate~~. ~~The director is subject to removal by the Governor pursuant to the provisions of Section 1-3-240~~ Director of the Department of Public and Behavioral Health.

Section 44-49-40. (A) The ~~department~~ division shall arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.

(B) ~~Results, information, and evidence received from the Department of Health and Environmental Control relating to the regulatory functions of this chapter and Article 3 of Chapter 53, including results of inspections conducted by such department, may be relied upon and acted upon by the department in conformance with its administration and coordinating duties under this Chapter and Article 3 of Chapter 53.~~

~~(C)(1)(B)~~ The ~~department~~ division shall:

- (1) plan, coordinate and cooperate in educational programs for schools, communities, and general public designed to prevent and deter misuse and abuse of controlled substances;
- (2) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;
- (3) assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;
- (4) consult with interested groups and organizations to aid them in solving administrative and organizational problems;
- (5) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;
- (6) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them;
- (7) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances;
- (8) encourage research on misuse and abuse of controlled substances;
- (9) cooperate in establishing methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for abuse;
- (10) cooperate in making studies and in undertaking programs of research to:

- (a) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this section, Sections 44-49-10, ~~44-49-40~~ and 44-49-50, and Article 3-~~of~~, Chapter 53;
- (b) determine patterns of misuse and abuse of controlled substances and the social effects ~~thereof~~; and
- (c) improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.

~~(D)~~(C) The department may enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

~~(E)~~(D) The department may enter into contracts for educational and research activities without performance bonds.

~~(F)~~(E) The department is authorized to accept gifts, bequests, devises, contributions, and grants, public or private, including federal funds, or funds from any other source for use in furthering the purpose of the department. The department is authorized to administer the grants and contracts arising from the federal program entitled the Drug-Free Schools and Communities Act of 1986, P.L. 99-570.

Section 44-49-50. It ~~shall be~~ is the duty of all departments, officers, agencies, and employees of the State to cooperate with the ~~Department~~ Division of Alcohol and Other Drug Abuse Services in carrying out its functions. The Attorney General shall furnish ~~such~~ legal services as are necessary to the division.

Section 44-49-60. The ~~department~~ division shall appoint a supervisor of adult education for the prevention of alcoholism, who ~~shall be~~ is responsible for activating and implementing an adequate alcoholic education program for the citizens of this State above high school age. The program shall must be designed to prevent or reduce alcoholism in this State and to create a recognition and understanding of the problem.

~~In carrying out the provisions of this section the department and the supervisor of adult education for the prevention of alcoholism may consult and work in conjunction with groups such as Alcoholics Anonymous, the Yale Center of Alcohol Studies of Yale University, the Research Council on Problems of Alcohol of the American Association for the Advancement of Science, the South Carolina Medical Association, the department of Mental Health, the Christian Action Council, the Committee on Alcoholism of the South Carolina Conference of Social Work and other groups or agencies that are able to assist in the study, prevention, treatment and rehabilitation of alcoholics and in a scientific educational program on the problems of alcohol.~~

Section 44-49-70. The ~~department~~ division shall furnish the supervisor of adult education for the prevention of alcoholism adequate ways and means to accomplish an effective educational program for the prevention of alcoholism in this State.

Section 44-49-80. The ~~department~~ division shall establish a program to provide alcohol and drug abuse intervention, prevention, and treatment services for the public schools of the State. The ~~department~~ division shall provide staff and support necessary to administer the program. Funds for this program must be annually appropriated by the General Assembly from the Education Improvement Act of 1984 Fund as it determines appropriate. The appropriated funds must be forwarded to the ~~South Carolina~~ Department of Public and Behavioral Health for disbursal to the Division of Alcohol and Other Drug Abuse Services from the Education Improvement Act of 1984 Fund in the manner the State Treasurer shall direct.”

SECTION 5. Chapter 11, Title 25 of the 1976 Code is amended by adding:

“Article 7

South Carolina Veteran Homes

Section 25-11-710. The Department of Veterans’ Affairs, in mutual agreement with the authorities of the United States Veterans Administration, may establish and operate South Carolina veterans homes to provide treatment for South Carolina veterans who require long-term nursing care. The Department of Veterans’ Affairs is designated as the agency of the State to apply for and to accept gifts, grants, and other contributions from the federal government or from any other governmental unit for the operation and construction of South Carolina veterans homes. The Department of Veterans’ Affairs may consult

with the Department of Public and Behavioral Health and the Office of the Governor concerning the policies, management, and operation of the South Carolina veterans homes.

Section 25-11-720. For the purpose of Section 25-11-710, 'South Carolina veterans' means any ex-service South Carolina citizen who was discharged under other than dishonorable conditions and who served in any branch of the military or naval service of the United States."

SECTION 6.A. Section 44-11-10(1) of the 1976 Code is amended to read:

"(1) those inpatient facilities as authorized by the Department of ~~Mental~~ Public and Behavioral Health and funded by legislative appropriations, including facilities for the evaluation and treatment of mentally ill persons, facilities for the evaluation and treatment of chemically dependent persons, and long-term care facilities; and"

B. Section 44-11-60 of the 1976 Code is amended to read:

"Section 44-11-60. The ~~Mental Health Commission~~ Department of Public and Behavioral Health shall establish mental health clinics throughout the State and shall supervise them."

C. Section 44-11-70 of the 1976 Code is amended to read:

"Section 44-11-70. The Department of ~~Mental~~ Public and Behavioral Health may employ law enforcement officers as may be necessary to maintain the security of state mental health facilities. The law enforcement officers must be vested with all the powers and charged with all the duties of police officers generally. They may, without warrant, arrest persons guilty of disorderly conduct or of trespass on state mental health facilities and have them tried in any court of competent jurisdiction."

SECTION 7.A. Section 44-13-20 of the 1976 Code is amended to read:

"Section 44-13-20. Any individual, legally a resident of this State, ordered to be admitted to any mental health facility under the laws of any other state, may be admitted, upon satisfactory proof of residence, to care and treatment in any state mental health facility of this State. The orders of any court of competent jurisdiction of another state or of the District of Columbia authorizing admittance of such individual to a mental health facility shall have the same force and effect upon his transfer to this State as a lawful order of any court of competent jurisdiction in this State. A certified copy of such order shall be furnished the Department of ~~Mental~~ Public and Behavioral Health prior to the issuance by the department of ~~Mental Health~~ of any authorization of transfer of such patient. Jurisdiction in all further matters relating to such mentally ill person shall vest in the judge of probate of the county in which the mental health facility, to which such person is admitted, is located, during his confinement therein, or the judge of probate of the county in which he is legally resident."

B. Section 44-13-30 of the 1976 Code is amended to read:

"Section 44-13-30. Unless he was admitted pursuant to the Interstate Compact on Mental Health as set out in Section 44-25-20 or a supplementary agreement thereto, if any person admitted to a State mental health facility is not a citizen of this State, the superintendent of the facility concerned shall immediately notify the Department of ~~Mental~~ Public and Behavioral Health, and the department of ~~Mental Health~~ shall notify the mental health commission or other appropriate agency of the state of which the patient or trainee is a citizen. If the state of his citizenship fails to provide for his removal within a reasonable time, the department of ~~Mental Health~~ shall cause him to be delivered to the officials authorized by law to care for similar persons pending their commitment to state institutions of the state of his citizenship. The cost of these proceedings and conveyance from this State shall be borne by this State under reciprocity agreements made by the department of ~~Mental Health~~ with the mental health authorities of other states. In entering upon such reciprocal agreements with other states, the department of ~~Mental Health~~ shall provide that the requirements necessary to gain residence in this State shall not be less than those required for the acquisition of residence in the other contracting state. The department of ~~Mental Health~~ may, however, in cases of undue hardship waive the requirements of residence, for cause."

C. Section 44-13-40 of the 1976 Code is amended to read:

“Section 44-13-40. If any person admitted to a State mental health facility is not a citizen of the United States, the superintendent of the facility concerned shall immediately notify the Department of ~~Mental Health~~ Public and Behavioral Health of the name of the person and all ascertainable information as to race, nativity, date of last arrival in the United States, the name of the vessel on which he arrived, the port at which he landed and the name of the transporting company. The department of ~~Mental Health~~ shall transmit this information to the appropriate United States authorities and shall continue to provide care and treatment for the patient or trainee pending arrangements for his deportation.”

D. Section 44-13-60 of the 1976 Code is amended to read:

“Section 44-13-60. The Department of ~~Mental Health~~ Public and Behavioral Health shall investigate the case of each patient or trainee in a State mental health facility who is simply mentally or physically infirm or who is a harmless mental defective or harmless epileptic. When, in the opinion of the department of ~~Mental Health~~, the family, guardian, trustee, committee or other person legally responsible for the person is financially able to provide for his care, it shall, when in the opinion of the department of ~~Mental Health~~ this is advisable, transfer the patient or trainee to the custody of that person. If all persons legally responsible for the patient or trainee are financially unable to provide for his care, the department of ~~Mental Health~~ shall, when practicable, transfer the custody of the person to the county health authorities of the county of which the patient or trainee was a resident prior to admittance.”

SECTION 8.A. Section 44-15-10 of the 1976 Code is amended to read:

“Section 44-15-10. Any county, city, town, political subdivision, or any combination thereof, of over one hundred thousand population, and upon consent of the South Carolina Department of ~~Mental Health~~ Public and Behavioral Health, any city, county, town, or political subdivision, or combination thereof, with less than one hundred thousand population, may establish a community mental health services program and may establish clinics and staff them with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a county, city, town, political subdivision or nonprofit corporation or a community mental health board established pursuant to this article.”

B. The undesignated, introductory paragraph of Section 44-15-20 of the 1976 Code is amended to read:

“The Department of ~~Mental Health~~ Public and Behavioral Health may, when funds are available for such purposes, make grants to assist counties, cities, towns, political subdivisions or any combinations thereof, or any nonprofit corporation, in the establishment and operation of local mental health programs to provide the following services:”

C. Section 44-15-30 of the 1976 Code is amended to read:

“Section 44-15-30. Any county, city, town, political subdivision, nonprofit corporation or community mental health board administering a mental health services program may apply for the assistance provided by this article by submitting annually to the Department of ~~Mental Health~~ Public and Behavioral Health its plan and budget for the next fiscal year together with the recommendations of the community mental health board. No program shall be eligible for such assistance unless its plan and budget have been approved by the department.”

D. Section 44-15-60 of the 1976 Code is amended to read:

“Section 44-15-60. Every county, city, town, or political subdivision, or combination of them, establishing a community mental health services program, before it may come within this article, shall establish a community mental health board to be made up of not less than seven nor more than fifteen members. Membership of the boards, so far as may be practicable, must be representatives of local health departments, medical societies, county welfare boards, hospital boards, and lay associations concerned with mental health as well as labor, business, and civic groups, and the general public. At least one member of the board must be a medical doctor licensed to practice medicine in this State. The members must be appointed by the Governor upon the recommendation of a majority of the members of the legislative delegations of the counties participating. The legislative delegations and the Governor shall consider consumer and family representation, including parents of emotionally disturbed children and adolescents, when recommending and appointing members to the board. By resolution a county legislative delegation may delegate to the governing body of the county they represent the authority to

recommend board members to the Governor. The resolution is not revocable, and copies of the resolution must be sent to the Governor, the Department of ~~Mental~~ Public and Behavioral Health, and the governing bodies of the counties concerned. The number of members representing each county must be proportional to its population. The term of office of each member of the community mental health board is four years and until the member's successor is appointed. Vacancies must be filled for the unexpired term in the same manner as original appointments. A member of a board may be removed by the Governor pursuant to the provisions of Section 1-3-240. A person may serve consecutive terms."

E. The undesignated, introductory paragraph of Section 44-15-70 of the 1976 Code is amended to read:

"Subject to the provisions of this article and the rules and regulations of the Department of ~~Mental~~ Public and Behavioral Health, each community mental health board shall:"

F.1. The undesignated, introductory paragraph of Section 44-15-80 of the 1976 Code is amended to read:

"Section 44-15-80. In addition to the powers and duties already conferred by law, the Department of ~~Mental~~ Public and Behavioral Health shall:"

2. Section 44-15-80(8) of the 1976 Code is amended to read:

"(8) Employ personnel, certified by the merit system as classified according to existing job classifications, including a State Director of Community Mental Health Services, to be under the supervision of the director of the department of ~~Mental~~ Health, to implement the provisions of this article."

G. Section 44-15-90 of the 1976 Code is amended to read:

"Section 44-15-90. If any balances of appropriations for the program authorized by this article are unexpended during any fiscal year, the Department of ~~Mental~~ Public and Behavioral Health may carry such balances forward to the next fiscal year; provided, that not more than five per cent of the amount appropriated during any fiscal year shall be carried forward."

SECTION 9.A. Section 44-17-450 of the 1976 Code is amended to read:

"Section 44-17-450. The Department of ~~Mental~~ Public and Behavioral Health, in conjunction with its local mental health centers acting as the preadmission facilities, must develop and maintain a preadmission screening and evaluation service for all psychiatric emergencies at the local community level utilizing available local resources for mentally ill persons. The preadmission screening services must act as the public mental health system's entry point in order (1) to provide to the examining physician information about accessible crisis intervention, evaluation, and referral services in the community; (2) to offer to mentally ill persons clinically appropriate alternatives to inpatient care, if any; and when necessary (3) to provide a means for involuntary commitment."

B. Section 44-17-460 of the 1976 Code is amended to read:

"Section 44-17-460. Prior to the emergency admission of any person to a psychiatric facility of the Department of ~~Mental~~ Public and Behavioral Health, the person must be examined by a licensed physician. The physician must inform the mental health center in the county where the person resides or where the examination takes place of the mental and physical treatment needs of the patient. The physician must consult with the center regarding the commitment/admission process and the available treatment options and alternatives in lieu of hospitalization at a state psychiatric facility.

The examining physician must complete a statement that he has consulted with the local mental health center prior to the admission of the person to a state psychiatric facility. If the physician does not consult with the center, he must state a clinical reason for his failure to do so. The statement must accompany the physician's certificate and written application for emergency commitment. The department, in its discretion, may refuse to admit a patient to its facility if the physician fails to complete the statement required by this section."

C. Section 44-17-580(A)(2) of the 1976 Code is amended to read:

“(2) there is a likelihood of serious harm to himself or others, the court shall order in-patient or out-patient treatment at a mental health facility, public or private, designated by the Department of ~~Mental~~ Public and Behavioral Health and may order out-patient treatment following in-patient treatment. If the court finds that the person is not mentally ill and not in need of involuntary treatment, the court shall dismiss the proceedings.”

D. Section 44-17-860 of the 1976 Code is amended to read:

“Section 44-17-860. It shall be unlawful for any person, without prior authorization from the patient’s attending physician, to take or cause to be taken any patient away from the grounds of any facility under the jurisdiction of the Department of ~~Mental~~ Public and Behavioral Health. Any person violating the provisions of this section shall be fined in a sum of not more than one thousand dollars or imprisoned for not exceeding one year, or both.”

E. Section 44-17-865 of the 1976 Code is amended to read:

“Section 44-17-865. If any person involuntarily committed to a facility under the jurisdiction of the Department of ~~Mental~~ Public and Behavioral Health is absent without proper authorization, the department shall immediately notify by telephone the appropriate state and local law enforcement officials of such absence. Such notice shall also be confirmed in writing and mailed to such law enforcement officials within twenty-four hours after the absence is discovered.”

F. Section 44-17-870 of the 1976 Code is amended to read:

“Section 44-17-870. If a patient involuntarily committed to a facility under the jurisdiction of the State Department of ~~Mental~~ Public and Behavioral Health is absent without proper authorization, a state or local law enforcement officer or employee of the department appointed pursuant to Section 44-11-70, upon the request of the facility superintendent or director or a designee and without the necessity of a warrant or a court order, may take the patient into custody and return the patient to a facility designated by the department. No person may be reconfined pursuant to this section after being continuously absent from the jurisdiction of the department for at least one year unless criminal charges are still pending against the patient or unless he was committed to a facility of the department pursuant to Chapter 24, Title 17.”

SECTION 10.A. Section 44-22-10(2) and (4) of the 1976 Code is amended to read:

“(2) ‘Director’ means the Director of the Department of ~~Mental~~ Public and Behavioral Health.

(4) ‘Department’ means the State Department of ~~Mental~~ Public and Behavioral Health.”

B. Section 44-22-110(C) of the 1976 Code is amended to read:

“(C) Patients and guardians denied access to medical records may appeal the refusal to the Director of the Department of ~~Mental~~ Public and Behavioral Health. The director of the residential program shall notify the patient or guardian of the right to appeal.”

SECTION 11.A. Section 44-23-10(3) and (5) of the 1976 Code is amended to read:

“(3) ‘Department’ means the South Carolina Department of ~~Mental~~ Public and Behavioral Health.

(5) ‘Director’ means the Director of the South Carolina Department of ~~Mental~~ Public and Behavioral Health.”

B. Section 44-23-210 of the 1976 Code is amended to read:

“Section 44-23-210. A person confined in a state institution or a person confined in a state or private mental health or intellectual disability facility may be transferred to another mental health or intellectual disability facility if:

(1) the director of a state institution not under the jurisdiction of the Department of Public and Behavioral Health’s Division of Mental Health requests the admission of a person confined there to a state mental health facility if the person is suspected of having a mental illness. If after full examination by two designated examiners, one of whom must be a

licensed physician, the director of the mental health facility is of the opinion that the person has a mental illness, the director shall notify the director of the institution or the facility to which the person was admitted who shall commence proceedings pursuant to Sections 44-17-510 through 44-17-610;

(2) the director of a facility in which the patient resides determines that it would be consistent with the medical needs of the person, the ~~department~~ Division of Mental Health may transfer or authorize the transfer of the patient from one facility to another. If the transfer is from a less restricted facility to a substantially more secure facility and the patient objects to the transfer, a hearing to give the patient a reasonable opportunity to contest the transfer must be held pursuant to Sections 44-17-540 through 44-17-570. When a patient is transferred, written notice must be given to the patient's legal guardian, attorney, parents, or spouse or, if none be known, to the patient's nearest known relative or friend. This section may not be construed to apply to transfers of a patient within a mental health facility; or

(3) the legal guardian, parent, spouse, relative, or friend of an involuntary patient submits a request for the transfer of the patient from one ~~department~~ Division of Mental Health facility to another and the reasons for desiring the transfer and unless the ~~department~~ Division of Mental Health reasonably determines that it would be inconsistent with the medical needs of the person, the transfer must be made. If the transfer is from a less restricted to a substantially more secure facility, item (2) governs."

C. Section 44-23-220 of the 1976 Code is amended to read:

"Section 44-23-220. No person who is mentally ill or who has an intellectual disability shall be confined for safekeeping in any jail. If it appears to the officer in charge of the jail that such a person is in prison, he shall immediately cause the person to be examined by two examiners designated by the Department of Public and Behavioral Health's Division of Mental Health or the Department of Disabilities and Special Needs, or both, and if in their opinion admission to a mental health or intellectual disability facility is warranted, the officer in charge of the jail shall commence proceedings pursuant to Sections 44-17-510 through 44-17-610, or Section 44-21-90. If hospitalization is ordered, the person shall be discharged from the custody of the officer in charge of the jail and shall be admitted to an appropriate mental health or intellectual disability facility."

D. Section 44-23-410 of the 1976 Code is amended to read:

"Section 44-23-410. (A) Whenever a judge of the circuit court or family court has reason to believe that a person on trial before him, charged with the commission of a criminal offense or civil contempt, is not fit to stand trial because the person lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity, the judge shall:

(1) order examination of the person by two examiners designated by the Department of Public and Behavioral Health's Division of Mental Health if the person is suspected of having a mental illness or designated by the Department of Disabilities and Special Needs if the person is suspected of having intellectual disability or having a related disability or by both sets of examiners if the person is suspected of having both mental illness and intellectual disability or a related disability. The examination must be made within thirty days after the receipt of the court's order and may be conducted in any suitable place unless otherwise designated by the court; or

(2) order the person committed for examination and observation to an appropriate facility of the ~~Department~~ Division of Mental Health or the Department of Disabilities and Special Needs for a period not to exceed fifteen days.

(B) Before the expiration of the examination period or the examination and observation period, the ~~Department~~ Division of Mental Health or the Department of Disabilities and Special Needs, as appropriate, may apply to a judge designated by the Chief Justice of the South Carolina Supreme Court for an extension of time up to fifteen days to complete the examination or the examination and observation.

(C) If the person or the person's counsel requests, the court may authorize the person to be examined additionally by a designated examiner of the person's choice. However, the court may prescribe the time and conditions under which the independent examination is conducted.

(D) If the examiners designated by the ~~Department~~ Division of Mental Health find indications of intellectual disability or a related disability but not mental illness, the ~~department~~ division shall not render an evaluation on the person's mental capacity, but shall inform the court that the person is 'not mentally ill' and recommend that the person should be evaluated for competency to stand trial by the Department of Disabilities and Special Needs. If the examiners designated by the Department of Disabilities and Special Needs find indications of mental illness but not intellectual disability or a related disability, the department shall not render an evaluation on the person's mental capacity, but shall inform the court that the

person does 'not have intellectual disability or a related disability' and recommend that the person should be evaluated for competency to stand trial by the ~~Department~~ Division of Mental Health. If either the ~~Department~~ Division of Mental Health or the Department of Disabilities and Special Needs finds a preliminary indication of a dual diagnosis of mental illness and intellectual disability or a related disability, this preliminary finding must be reported to the court with the recommendation that one examiner from the ~~Department~~ Division of Mental Health and one examiner from the Department of Disabilities and Special Needs be designated to further evaluate the person and render a final report on the person's mental capacity."

E. Section 44-23-1080 of the 1976 Code is amended to read:

"Section 44-23-1080. No patient or prisoner under the jurisdiction of the ~~South Carolina~~ Department of Public and Behavioral Health's Division of Mental Health is allowed access to alcoholic beverages, firearms, dangerous weapons, or controlled substances as defined by Section 44-53-110. Any person who intentionally or negligently allows patients or prisoners of the department access to these items or who attempts to furnish these items to patients or prisoners of the department is guilty:

(1) in the case of alcoholic beverages or controlled substances, of a misdemeanor and, upon conviction, must be punished by a fine of not less than one hundred dollars nor more than ten thousand dollars or imprisonment for not less than thirty days nor more than ten years, or both; and

(2) in the case of firearms or dangerous weapons, of a felony and, upon conviction, must be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment for not less than one year nor more than ten years, or both."

F. Section 44-23-1110 of the 1976 Code is amended to read:

"Section 44-23-1110. The Department of Public and Behavioral Health's Division of Mental Health shall establish the charges for maintenance and medical care for patients, other than beneficiary, of State mental health facilities. These charges shall be based upon the per capita costs per day of the services rendered, which may include costs of operation, costs of depreciation, and all other elements of cost, which may be adjusted from time to time as the ~~department of Mental Health~~ division considers advisable. It shall establish a reasonable scale of fees to be charged patients, other than beneficiary, served by the mental health clinics and shall retain these fees for use in defraying the expenses of the clinics."

G. Section 44-23-1120 of the 1976 Code is amended to read:

"Section 44-23-1120. Upon the death of a person who is or has been a patient or trainee of a State mental health facility the executor or administrator and the judge of probate shall notify the Department of Public and Behavioral Health's Division of Mental Health in writing. If the decedent was cared for at the expense of the State during his confinement, the ~~department of Mental Health~~ division shall present a claim for the amount due, and this claim shall be allowed and paid as other lawful claims against the estate. The ~~department of Mental Health~~ division may waive the presentation of any claim when, in its opinion, an otherwise dependent person would be directly benefited by waiver."

H. Section 44-23-1130 of the 1976 Code is amended to read:

"Section 44-23-1130. The Department of Public and Behavioral Health's Division of Mental Health shall make investigations and ascertain which of the patients or trainees of State mental health facilities or which of the parents, guardians, trustees, committees or other persons legally responsible therefor are financially able to pay the expenses of the care and treatment, and it may contract with any of these persons for a patient's or trainee's care and treatment. The ~~department of Mental Health~~ division may require any county or State agency which might have or might be able to obtain information which would be helpful to it in making this investigation to furnish this information upon request. In arriving at the amount to be paid the ~~department of Mental Health~~ division shall have due regard for the financial condition and estate of the patient or trainee, his present and future needs and the present and future needs of his lawful dependents, and whenever considered necessary to protect him or his dependents may agree to accept a monthly sum less than the actual per capita cost."

I. Section 44-23-1140 of the 1976 Code is amended to read:

“Section 44-23-1140. There is hereby created a general lien upon the real and personal property of any person who is receiving or who has received care or treatment in a State mental health facility, to the extent of the total expense to the State in providing the care, training or treatment. The Department of Public and Behavioral Health’s Division of Mental Health shall send to the clerk of court or the register of deeds in those counties having such officer and the judge of probate of the county of the patient’s or trainee’s known or last known residence a statement showing the name of the patient or trainee and the date upon which the lien attaches, which shall be filed in the offices of the clerk of court or the register of deeds in those counties having such officer and the judge of probate in each county in which the patient or trainee then owns or thereafter acquires property, real or personal, and no charge shall be made for this filing. From the time of filing in either office, the statement shall constitute due notice of the lien against all property then owned or thereafter acquired by the patient or trainee. No action to enforce the lien may be brought more than one year after the patient’s or trainee’s death. This lien shall in no way affect the right of homestead.”

SECTION 12. Section 44-24-10(7) of the 1976 Code is amended to read:

“(7) ‘Department’ means the State Department of ~~Mental~~ Public and Behavioral Health.”

SECTION 13. Section 44-25-30 of the 1976 Code is amended to read:

“Section 44-25-30. Pursuant to the compact, the ~~State~~ Directors of the ~~Departments~~ Division of Mental Health and Department of Disabilities and Special Needs shall be the compact administrators for the mentally ill and persons with intellectual disability, or those with a related disability, respectively, and, acting jointly with like officers of other party states, shall have power to promulgate ~~rules and~~ regulations to carry out more effectively the terms of the compact. The compact administrators shall cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the compact and any supplementary agreement or agreements entered into by this State and thereunder.”

SECTION 14.A. Section 44-27-10 of the 1976 Code is amended to read:

“Section 44-27-10. When the individual is admitted to any institution operated by any agency of the United States within or without this State, he shall be subject to the rules and regulations of the agency. The superintendent of any institution operated by the agency and in which the individual is confined shall, with respect to the individual, be vested with the same powers as the superintendents of institutions or the Department of ~~Mental~~ Public and Behavioral Health within this State with respect to detention, custody, transfer, conditional discharge or discharge of patients.”

B. Section 44-27-30 of the 1976 Code is amended to read:

“Section 44-27-30. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual confined pursuant to law in any State mental health facility and that such individual is eligible for care or treatment in an institution of the agency, the Department of ~~Mental~~ Public and Behavioral Health may cause his transfer to the agency of the United States for confinement. Upon effecting the transfer, the court ordering confinement, the legal guardian, spouse and parents or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department of ~~Mental Health~~. No person shall be transferred to an agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness unless prior to transfer the court originally ordering his confinement shall enter an order for transfer after appropriate motion and hearing. Any person transferred as provided in this section to an agency of the United States shall be deemed to be confined by the agency pursuant to the original order of confinement.”

SECTION 15.A. Section 44-28-20 of the 1976 Code is amended to read:

“Section 44-28-20. For the purpose of this chapter ‘a self-sufficiency trust’ means a trust created by a nonprofit corporation exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 and organized for purposes of providing care or treatment of one or more developmentally disabled, mentally ill, or physically handicapped persons eligible for services of the South Carolina Department of Disabilities and Special Needs, ~~State~~

~~Department~~ the Department of Public and Behavioral Health's Division of Mental Health, or the State Agency of Vocational Rehabilitation.”

B. Section 44-28-40 of the 1976 Code is amended to read:

“Section 44-28-40. (A) The South Carolina Department of Disabilities and Special Needs, ~~State Department~~ the Department of Public and Behavioral Health's Division of Mental Health, or the State Agency of Vocational Rehabilitation must provide care or treatment for a beneficiary from monies available from the beneficiary's account maintained in the Self-Sufficiency Trust Fund.

(B) Upon proper certification by the South Carolina Department of Disabilities and Special Needs, the Department of Public and Behavioral Health's Division of Mental Health, or the State Agency of Vocational Rehabilitation, the State Treasurer shall process vouchers from the Self-Sufficiency Trust Fund accounts for services provided pursuant to this section.”

C. Section 44-28-60 of the 1976 Code is amended to read:

“Section 44-28-60. If the State Treasurer after consultation with the South Carolina Department of Disabilities and Special Needs, the Department of Public and Behavioral Health's Division of Mental Health, or the State Agency of Vocational Rehabilitation determines that the money in the account of a named beneficiary cannot be used for supplemental care or treatment of the beneficiary in a manner consistent with the agreement or upon request of the trustee of the self-sufficiency trust, the remaining money in the account and any accumulated interest promptly must be returned to the self-sufficiency trust which deposited the money in the Self-Sufficiency Trust Fund.”

D. Section 44-28-80 of the 1976 Code is amended to read:

“Section 44-28-80. The South Carolina Department of Disabilities and Special Needs, the Department of Public and Behavioral Health's Division of Mental Health, and the State Agency of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Self-Sufficiency Trust Fund.”

E. Section 44-28-360 of the 1976 Code is amended to read:

“Section 44-28-360. The South Carolina Department of Disabilities and Special Needs, the Department of Public and Behavioral Health's Division of Mental Health, or State Agency of Vocational Rehabilitation must provide care or treatment for the beneficiary from monies available from the Disability Trust Fund. These agencies are responsible only for the beneficiaries that meet their individual eligibility criteria.”

F. Section 44-28-370 of the 1976 Code is amended to read:

“Section 44-28-370. The South Carolina Department of Disabilities and Special Needs, the ~~State Department~~ Division of Mental Health, and the State Department of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Disability Trust Fund.”

SECTION 16. Chapter 3, Title 49 of the 1976 Code is amended to read:

“CHAPTER 3

~~Water Resources Planning and Coordination Act~~ Department of Environmental Services

~~Section 49-3-10. This chapter may be cited as the South Carolina Water Resources Planning and Coordination Act.~~

~~Section 49-3-20. As used in this chapter:~~

- ~~(1) 'Board' means the governing body of the Department of Natural Resources.~~
- ~~(2) 'Department' means the Department of Natural Resources.~~

Section 49-3-30. The former Water Resources Commission without its regulatory functions is hereby transferred to the Water Resources Division of the Department of Natural Resources and is directly accountable to and subject to the board of the Department of Natural Resources. The Water Resources Division shall be directly accountable to and subject to the Department of Natural Resources. The regulatory functions of the former Water Resources Commission are transferred to the Department of Health and Environmental Control.

Section 49-3-40. (a) The department shall advise and assist the Governor and the General Assembly in:

(1) formulating and establishing a comprehensive water resources policy for the State, such as a State Water Plan, including coordination of policies and activities among the state departments and agencies;

(2) developing and establishing policies and proposals designed to meet and resolve special problems of water resource use and control within or affecting the State, including consideration of the requirements and problems of urban and rural areas;

(3) reviewing the actions and policies of state agencies with water resource responsibilities to determine the consistency of such actions and policies with the comprehensive water policy of the State and to recommend appropriate action where deemed necessary;

(4) reviewing any project, plan or program of federal aid affecting the use or control of any waters within the State and to recommend appropriate action where deemed necessary;

(5) developing policies and recommendations to assure that the long range interests of all groups, urban, suburban, and rural, are provided for in the state's representation on interstate water issues;

(6) recommending to the General Assembly any changes of law or regulation required to implement the policy declared in this chapter; and

(7) such other water resources planning, policy formulation and coordinating functions as the Governor and the General Assembly may designate.

(b) The department is authorized to conduct or arrange for such studies, inquiries, surveys or analyses as may be relevant to its duties in assisting the Governor and the General Assembly in the implementation of the policy declared in this chapter, and in developing recommendations for the General Assembly. For these purposes, the department shall have full access to the relevant records of other state departments and agencies and political subdivisions of the State, and may hold public hearings, and may cooperate with or contract with any public or private agency, including educational, civic and research organizations. The studies, inquiries, surveys, or analyses shall incorporate and integrate, to the maximum extent feasible, plans, programs, reports, research and studies of federal, state, interstate, regional, metropolitan and local units, agencies and departments of government.

(c) In developing recommendations for the Governor and the General Assembly relating to the use and control of the water resources of the State, the department shall:

(1) coordinate its activities by distribution of copies of its notices of meetings with agenda, minutes and reports of all state agencies concerned with water resources;

(2) consult with representatives of any federal, state, interstate, or local units of government which would be affected by such recommendations; and

(3) be authorized to appoint such interdepartmental and public advisory boards as necessary to advise them in developing policies for recommendations to the Governor and the General Assembly.

(d) The department shall encourage, assist and advise regional, metropolitan, and local governmental agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and shall assist in coordinating local and regional water resources activities, programs, and plans.

(e) The department may publish reports, including the results of such studies, inquiries, surveys and analyses as may be of general interest, and shall make an annual report of its activities to the Governor and the General Assembly within ten days after the convening of each session of the General Assembly.

(f) The department may receive and expend grants, gifts, and monies donated or given by any state, federal, or private agency, person, corporation, water or sewer authority, or political subdivision in connection with water resource investigations in which the results of such investigations will be made publicly available.

(g) The department is authorized and required to review and approve the expenditure of funds derived from the United States Army Corps of Engineers when any funds are authorized and appropriated for any water resources related projects or purposes, including but not limited to, the following:

(1) navigation;

(2) irrigation;

(3) water storage;

- (4) aquatic weed management,
- (5) flood control,
- (6) salinity control,
- (7) interstate water concerns, and
- (8) any studies, surveys, or analyses performed by the Corps of Engineers.

The review and approval required by this subsection is not applicable to any Corps of Engineers funds which must be expended in a different manner pursuant to express statutory direction.

Section 49-3-50. In exercising its responsibilities under this chapter, the department shall take into consideration the need for:

- (a) Adequate supplies of surface and groundwaters of suitable quality for all uses, including domestic, municipal, agricultural, and industrial.
- (b) Water of suitable quality for all purposes.
- (c) Water availability for recreational and commercial needs.
- (d) Hydroelectric power.
- (e) Flood damage control or prevention measures including zoning to protect people, property, and productive lands from flood losses.
- (f) Land stabilization measures.
- (g) Drainage measures, including salinity control.
- (h) Watershed protection and management measures.
- (i) Outdoor recreational and fish and wildlife opportunities.
- (j) Studies on saltwater intrusion into groundwater and surface water.
- (k) Measures to protect the state's fisheries and other aquatic resources.
- (l) Any other means by which development of water and related land resources can contribute to economic growth and development, the long term preservation of water resources, and the general well-being of all the people of the State.

Section 49-3-10. (A) There is created the Department of Environmental Services comprised of:

- (1) the Division of Onsite Wastewater and Enforcement;
- (2) the Division of Environmental Response;
- (3) the Division of Land and Waste Management;
- (4) the Division of Water Resources;
- (5) the Division of Water Permitting, Compliance, and Enforcement; and
- (6) the Office of Ocean and Coastal Resource Management.

(B) The department is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of the Department of Health and Environmental Control on the effective date of this act, including, but not limited to, functions, powers, and duties provided for in this chapter; in Chapters 2, 55, 56, 93, 95, and 96 of Title 44; in Chapters 2, 14, 18, 20, 21, 40, 41, 43, 46, 55, 56, 57, and 60 of Title 48; and in Chapter 5 of Title 49.

Section 49-3-20. (A) The Governor shall appoint a Director of the Department of Environmental Services pursuant to Section 1-30-10(B)(1) with the advice and consent of the Senate who manages the department and who may appoint deputies for the divisions pursuant to Section 1-30-10(E).

(B) If a vacancy occurs in the department when the Senate is not in session, the Governor may appoint a director to fill the vacancy until the Senate acts on the appointment.

(C) The director is subject to removal by the Governor as provided for in Section 1-3-240.

(D) Until the Governor appoints the initial director after creation of the department, the director of the Division of Environmental Affairs at the Department of Health and Environmental Control shall serve as the Director of the Department of Environmental Services.

Section 49-3-30. The director shall have all authority and duties as provided for in Chapter 30, Title 1.

Section 49-3-40. (A) All decisions of the Department of Environmental Services involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, certificates, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this

section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 49-3-45.

(B) The department shall comply with all requirements for public notice, receipt of public comments, and public hearings before making a decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment, and public hearings.

(C) In making a decision about a permit, license, certification or other approval, the department shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny or condition a permit, license, certification or other approval. At the time that a decision is made, the department shall issue a written decision and shall base its decision on the administrative record, which must consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification or other approval. The administrative record also may include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as such materials are specifically referred to in the department decision. The department is not required to issue a written decision for issuance of routine permits for which the department has not received adverse public comments.

(D)(1) The department shall send a notice of a decision by certified mail, returned receipt requested to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail in lieu of certified mail. Notice of decisions for which a written decision is not required pursuant to subsection (C) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified.

(2) Within thirty calendar days after the receipt of the decision pursuant to item (1) an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions of Section 1-23-330 regarding the department's specialized knowledge.

(E) If a deadline provided for in this section falls on a Saturday, Sunday, or state holiday, the deadline must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

Section 49-3-45. (A) In making a decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 49-3-40(C), the department shall base its decision solely on whether the permit complies with the applicable department regulations governing the permitting of poultry and other animal facilities, other than swine facilities.

(B) For purposes of permitting, licensing, certification, or other approval of a poultry facility or another animal facility, other than a swine facility:

(1) only an applicant, permittee, licensee, or affected person may request a contested case hearing pursuant to Section 49-3-40(D)(2);

(2) only an applicant, permittee, licensee, or affected person may become a party to a contested case hearing; and

(3) only an applicant, permittee, licensee, or affected person is entitled as of right to be admitted as a party pursuant to Section 1-23-310(5) of the Administrative Procedures Act.

(C)(1) In determining whether to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, the department only may take into consideration the existing development on and use of property owned or occupied by an affected person on the date the department receives the applicant's complete application package as prescribed by regulation. The department must not take into consideration any changes to the development or use of property after receipt of the application, including, but not limited to, the construction of a residence.

(2) If a property owner signs a setback waiver of the right to contest the issuance of a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, including waiver of the right to notice and a public hearing on a permit, license, certification, or other approval and to file a contested case or other action, then the affected person has seventy-two hours to provide in writing a withdrawal or rescission of the waiver.

(D)(1) An applicant, permittee, licensee, or affected person who is aggrieved by a decision to issue or deny a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.

(2) Notwithstanding any other provision of law, a decision to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may not be contested if the proposed building footprint is located eight hundred feet or more from the facility owner's property line or located one thousand feet or more from an adjacent property owner's residence.

(E) For purposes of this section, 'affected person' means a property owner with standing within a one-mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities.

Section 49-3-50. (A) The Department of Environmental Services may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the thorough sanitation and disinfection of all passenger cars, sleeping cars, steamboats, and other vehicles of transportation in this State and all correctional facilities, jails, hotels, schools, and other places used by or open to the public;

(2) the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, and all other places or establishments providing eating or drinking facilities and all other places known as private nursing homes or places of similar nature, operated for gain or profit;

(3) the control of industrial plants, including the protection of workers from fumes, gases, and dust, whether obnoxious or toxic;

(4) the use of water in air humidifiers;

(5) the regulation of the methods of disposition of garbage or sewage and any like refuse matter in or near any village, town, or city of the State, incorporated or unincorporated, and to abate obnoxious and offensive odors caused or produced by septic tank toilets by prosecution, injunction, or otherwise; and

(6) the alteration of safety glazing material standards and the defining of additional structural locations as hazardous areas, and for notice and hearing procedures by which to effect these changes.

(B) The department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the environment and public life and health.

Section 49-3-60. (A) There is established within the Department of Environmental Services an Expedited Review Program to provide an expedited process for permit application review. Participation in this program is voluntary, and the program must be supported by expedited review fees promulgated in regulation pursuant to subsection (B)(1). The department shall determine the project applications to review, and the process may be applied to any one or all of the permit programs administered by the department.

(B)(1) Before January 1, 2009, the Department of Health and Environmental Control was directed to promulgate regulations necessary to carry out the provisions of this section. The regulations were to include, but are not limited to, definitions of 'completeness' for applications submitted, consideration of joint federal-state permitting activities, standards for applications submitted that advance environmental protection, and expedited process application review fees. Beginning the effective date of this act, the Department of Environmental Services shall promulgate regulations it determines necessary to carry out the purposes of this section.

(2) Regulations promulgated pursuant to this section must not alter public notice requirements for permits, certifications, or licenses issued by the Department of Environmental Services.

(C) Until the Department of Health and Environmental Control promulgated regulations pursuant to subsection (B)(1), it was directed to conduct a pilot expedited review program to determine the most environmentally sound, cost efficient, and economically beneficial process for implementation of a statewide expedited review program and to determine which permit programs, or subcomponents of a program, to include in the pilot program and also was authorized to establish pilot program expedited process application fees.

(D) There was created the Expedited Review Fund that is separate and distinct from the general fund of the State and all other funds. Fees established in regulation pursuant to subsection (B) and assessed pursuant to subsection (C) must be credited to the fund and used for the costs of implementing the expedited review program. Interest accruing to the fund must be retained by the fund and used for the same purposes. Revenue in the fund not expended during a fiscal year, including fees generated pursuant to subsection (C), must be carried forward to the succeeding fiscal year and must be used for the same purposes.

Section 49-3-70. A corporation or person whose only purpose is furnishing, supplying, marketing, or selling treated effluent for irrigation purposes, is not a public utility for purposes of Title 58 by virtue of the furnishing, supplying, marketing, or selling of the treated effluent, provided that the effluent has not been permitted for consumption by the Department of Environmental Services or other regulatory agency.

Section 49-3-80.(A) A person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Environmental Services, made by the department pursuant to Section 49-3-50, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to Section 49-3-50 is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term 'notice' as used in this section means either actual notice or constructive notice.

(E) This section does not apply to fines levied pursuant to Section 49-3-50(3) or any other areas regulated by the South Carolina Occupational Health and Safety Act, Section 41-12-10, et seq.

Section 49-3-85. Nothing contained in Section 49-3-50 in any way abridges or limits the right of a person to maintain or prosecute a civil or criminal proceeding against a person maintaining a nuisance.

Section 49-3-90. (A) For purposes of the section, 'impacted location' means any facility issued or otherwise subject to a permit, license, or approval from the North Carolina Department of Environment and Natural Resources that has now been determined to be located within the jurisdiction of the South Carolina Department of Environmental Services as a result of the amendments to Section 1-1-10, effective January 1, 2017.

(B) Notwithstanding any other provision of law, the South Carolina Department of Environmental Services, in issuing any environmental permit, license, or approval to an impacted location shall provide a schedule of compliance that allows the permittee a reasonable period of time to be no greater than five years to come into compliance with any South Carolina environmental rule, regulation, or standard established by the department or by law that has no corresponding rule, regulation, or standard under North Carolina law or regulation, or is more stringent than the corresponding rule, regulation, or standard established under North Carolina law or regulation. The department may include increments of progress applicable in each year of the schedule established under this subsection, and may shorten the period of compliance as necessary to prevent an imminent threat to the public health and environment. The department may extend a permittee's compliance schedule under this section beyond five years upon written application by the permittee only if the department determines that circumstances reasonably require such an extension, and the extension of time would pose no threat to public health or the environment."

SECTION 17.A. Section 44-2-20(3) and (5) of the 1976 Code is amended to read:

"(3) 'Committed funds' means that portion of the Superb Account reserved as a result of action by the Department of Health and Environmental Control Services to approve costs for planned site rehabilitation activities.

(5) 'Department' means the Department of Health and Environmental Control Services."

B. Section 44-2-40(A) of the 1976 Code is amended to read:

"(A) There is created within the state treasury two separate and distinct accounts which are to be administered by the Department of Health and Environmental Control Services. The 'Superb Account' and the 'Superb Financial Responsibility Fund' are created to assist owners and operators of underground storage tanks containing petroleum and petroleum products to the extent provided for in this chapter but not to relieve the owner or operator of any liability that cannot be satisfied by the provisions of this chapter.

The Superb Account must be used for payment of usual, customary, and reasonable costs for site rehabilitation of releases from underground storage tanks containing petroleum or petroleum products.

The Superb Financial Responsibility Fund must be used for compensating third parties for actual costs for bodily injury and property damage caused by accidental releases from underground storage tanks containing petroleum or petroleum products. The Superb Financial Responsibility Fund must not be used for reimbursing claims for punitive damages.

Except for releases reported before July 1, 1994, sites where the underground storage tank, at the time of discovery and reporting of the release to the department, is not in substantial compliance with regulations promulgated pursuant to Section 44-2-50(A), are not eligible for compensation from the Superb Account, and no third party claims resulting from that release may be paid from the Superb Financial Responsibility Fund."

C. Section 44-2-60(C) of the 1976 Code is amended to read:

“(C) In addition to the inspection fee of one-fourth cent a gallon imposed pursuant to Section 39-41-120, an environmental impact fee of one-half cent a gallon is imposed which must be used by the department for the purposes of carrying out the provisions of this chapter. This one-half cent a gallon environmental impact fee must be paid and collected in the same manner that the one-fourth cent a gallon inspection fee is paid and collected except that the monies generated from these environmental impact fees must be transmitted by the Department of Agriculture to the Department of ~~Health and Environmental Control~~ Services which shall deposit the fees as provided for in Section 44-2-40.”

D. Section 44-2-130(E)(1) of the 1976 Code is amended to read:

“(1) An owner or operator of an underground storage tank or his agent seeking to qualify for compensation from the Superb Account for site rehabilitation shall submit a written application to the department. The written application must be on a form specified by the department and include certification that site rehabilitation is necessary, the tanks at the site have been registered in compliance with applicable law and regulations, and all registration fees have been paid. The department shall accept certification that the release at the site is in need of rehabilitation if the certification is provided jointly by the owner or operator and a South Carolina registered professional geologist or engineer, and if the certification is supported with geotechnical data which reasonably justifies the claim. Upon final determination the department shall provide written notice to the applicant of its findings including detailed reasons for any denial. Any denial of an application must be appealable to ~~the Board of Health and Environmental Control~~ a court with appropriate jurisdiction pursuant to the Administrative Procedures Act. The department is exempt from this time frame for applications which are received within three months of the close of the grace period allowed in Section 44-2-110.”

SECTION 18.A. Section 44-4-130(F), (I), and (W) of the 1976 Code is amended to read:

“(F) ‘~~Commissioner~~ Director’ means the ~~Commissioner~~ Director of the Department of Public and Behavioral Health and Environmental Control.

(I) ‘~~DHEC~~ Department’ means the Department of Public and Behavioral Health and Environmental Control or any person authorized to act on behalf of the Department of Public and Behavioral Health and Environmental Control.

(W) ‘Trial court’ is the circuit court for the county in which the isolation or quarantine is to occur or to the circuit court for the county in which a public health emergency has been declared. If that court is unable to function because of the isolation, quarantine, or public health emergency, the trial court is a circuit court designated by the Chief Justice upon petition and proper showing by the Department of Public and Behavioral Health and Environmental Control.”

B. Section 44-4-540(B)(1) of the 1976 Code is amended to read:

“(1) ~~DHEC~~ The department may temporarily isolate or quarantine an individual or groups of individuals through an emergency order signed by the ~~commissioner~~ director or his designee, if delay in imposing the isolation or quarantine would significantly jeopardize ~~DHEC’s~~ the department’s ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.”

C. The Code Commissioner is directed to change all references to ‘DHEC’ in Chapter 4, Title 44 of the 1976 Code to ‘the department’.

SECTION 19.A. Section 44-7-130(3) and (8) of the 1976 Code is amended to read:

“(3) ‘~~Board~~’ means the ~~State Board of Health and Environmental Control~~ Reserved.

(8) ‘Department’ means the Department of Public and Behavioral Health and Environmental Control.”

B. Section 44-7-150(3) of the 1976 Code is amended to read:

“(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department ~~and approved by the board~~ to carry out the department’s licensure and Certificate of Need duties under this article, including regulations to deal with competing applications;”

C. Section 44-7-180(A) and (C) of the 1976 Code is amended to read:

“(A) There is created a health planning committee comprised of fourteen members. The Governor shall appoint twelve members, which must include at least one member from each congressional district. In addition, each of the following groups must be represented among the Governor’s appointees: health care consumers, health care financiers, including business and insurance, and health care providers, including an administrator of a licensed for-profit nursing home. ~~The chairman of the board~~ director of the department shall appoint one member. The South Carolina Consumer Advocate or the Consumer Advocate’s designee is an ex officio nonvoting member. Members appointed by the Governor are appointed for four-year terms, and may serve only two consecutive terms. Members of the health planning committee are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions. The committee shall elect from among its members a chairman, vice chairman, and such other officers as the committee considers necessary to serve a two-year term in that office.

(C) Upon approval by the health planning committee, the South Carolina Health Plan must be submitted at least once every two years to the ~~board~~ department for final revision and adoption. Once adopted by the ~~board~~ department, the plan may later be revised through the same planning and approval process. The department shall adopt by regulation a procedure to allow public review and comment, including regional public hearings, before adoption or revision of the plan.”

D. Section 44-7-190(A) of the 1976 Code is amended to read:

“(A) The department shall adopt, ~~upon approval of the board~~, Project Review Criteria which, at a minimum, must provide for the determination of need for health care facilities, beds, services and equipment, including demographic needs, appropriate distribution, and utilization; accessibility to underserved groups; availability of facilities and services without regard to ability to pay; absence of less costly and more effective alternatives; appropriate financial considerations, including method of financing, financial feasibility, and cost containment; consideration of impact on health systems resources; site and building suitability; consideration of quality of care; and relevant special considerations as may be appropriate. The Project Review Criteria must be adopted as a regulation pursuant to the Administrative Procedures Act.

E. Section 44-7-200(C) of the 1976 Code is amended to read:

“(C) ~~Upon publication of this notice and until a contested case hearing is requested pursuant to Section 44-1-60(G):~~
(1) ~~members of the board and persons appointed by the board to hold a final review conference on staff decisions may not communicate directly or indirectly with any person in connection with the application; and~~
(2) ~~no person shall communicate, or cause another to communicate, as to the merits of the application with members of the board and persons appointed by the board to hold a final review conference on staff decisions.~~
A person who violates this subsection is subject to the penalties provided in Section 1-23-360 Reserved.”

F. Section 44-7-210(C) - (E) of the 1976 Code is amended to read:

“(C) On the basis of staff review of the application, the ~~staff~~ department shall make a ~~staff~~ department decision to grant or deny the Certificate of Need and the ~~staff~~ department shall issue a decision in accordance with Section 44-1-60(D) (C). Notice of the decision must be sent to the applicant and affected persons who have asked to be notified. ~~The decision becomes the final agency decision unless a timely written request for a final review is filed with the department as provided for in Section 44-1-60(E).~~

However, a person may not file a request for final review in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the department during the staff review that he is an affected person and specifically states his opposition to the application under review.

(D) ~~The staff’s decision is not the final agency decision until the completion of the final review process provided for in Section 44-1-60(F).~~

(E) A contested case hearing of the final agency decision must be requested in accordance with Section 44-1-60(G) (D). The issues considered at the contested case hearing considering a Certificate of Need are limited to those presented or considered during the staff department review.”

G. Section 44-7-230(D) of the 1976 Code is amended to read:

“(D) A Certificate of Need is valid for one year from the date of issuance. A Certificate of Need must be issued with a timetable submitted by the applicant and approved by the department to be followed for completion of the project. The holder of the Certificate of Need shall submit periodic progress reports on meeting the timetable as may be required by the department. Failure to meet the timetable results in the revocation of the Certificate of Need by the department unless the department determines that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay. The department may grant two extensions of up to nine months each upon evidence that substantial progress has been made in accordance with procedures set forth in regulations. ~~The board may grant further extensions of up to nine months each only if it determines that substantial progress has been made in accordance with the procedures set forth in regulations.~~”

H. Section 44-7-320(B) of the 1976 Code is amended to read:

“(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, a notice setting forth the particular reasons for the determination. The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within such thirty-day period, requests in writing a contested case hearing ~~before the board, or its designee~~, pursuant to the Administrative Procedures Act. On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.”

I. Section 44-7-370 of the 1976 Code is amended to read:

“Section 44-7-370. (A) The South Carolina Department of Public and Behavioral Health and Environmental Control shall establish a Residential Care Committee to advise the department regarding licensing and inspection of community residential care facilities.

(1) The committee consists of the Long Term Care Ombudsman, three operators of homes with ten beds or less, four operators of homes with eleven beds or more, and three members to represent the department appointed by the ~~commissioner~~ director for terms of four years.

(2) The terms must be staggered and no member may serve more than two consecutive terms. Any person may submit names to the ~~commissioner~~ director for consideration. The advisory committee shall meet at least once annually with representatives of the department to evaluate current licensing regulations and inspection practices. Members shall serve without compensation.

(B) The Department of Public and Behavioral Health and Environmental Control shall appoint a Renal Dialysis Advisory Council to advise the department regarding licensing and inspection of renal dialysis centers. The council must be consulted and have the opportunity to review all regulations promulgated by the ~~board~~ department affecting renal dialysis prior to submission of the proposed regulations to the General Assembly.

(1) The council is composed of a minimum of fourteen persons, one member recommended by the Palmetto Chapter of the American Nephrology Nurses Association; one member recommended by the South Carolina Chapter of the National Association of Patients on Hemodialysis and Transplants; three physicians specializing in nephrology recommended by the South Carolina Renal Physicians Association; two administrators of facilities certified for dialysis treatment or kidney transplant services; one member recommended by the South Carolina Kidney Foundation; one member recommended by the South Carolina Hospital Association; one member recommended by the South Carolina Medical Association; one member of the general public; one member representing technicians working in renal dialysis facilities; one member recommended by the Council of Nephrology Social Workers; and one member recommended by the Council of Renal Nutritionists. The directors of dialysis programs at the Medical School of the University of South Carolina and the Medical University of South Carolina, or their designees, are ex officio members of the council.

(2) Members shall serve four-year terms and until their successors are appointed and qualify. No member of council shall serve more than two consecutive terms. The council shall meet as frequently as the ~~board~~ department considers necessary, but not less than twice each year. Members shall serve without compensation.”

J. Section 44-7-760 of the 1976 Code is amended to read:

“Section 44-7-760. Every person who is financially able shall pay to the board of hospital trustees or such officers as it shall designate for such county or public hospital or tuberculosis camp such reasonable compensation as he is able to pay for occupying a bed in such hospital or camp or being nursed, cared for or maintained therein according to the rules and regulations of the ~~board~~ department.”

K. Section 44-7-2430(C)(1) of the 1976 Code is amended to read:

“(1) The ~~Board Department~~ of Public and Behavioral Health and Environmental Control shall appoint an advisory committee that must have an equal number of members representing all involved parties. The ~~board~~ department shall seek recommendations for appointments to the advisory committee from organizations that represent the interests of hospitals, consumers, businesses, purchasers of health care services, physicians, and other professionals involved in the research and control of infections.”

SECTION 20.A. Section 44-29-10(D) of the 1976 Code is amended to read:

“(D) The reports of conditions must be made in the form and manner as prescribed by ~~DHEC~~ the department in regulations concerning infectious diseases. The reports must be made to the Bureau of Disease Control in the manner required in the regulations. When available, clinical information supporting the diagnoses, including results of specific diagnostic tests, must be included.”

B. Section 44-29-150 of the 1976 Code is amended to read:

“Section 44-29-150. No person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the ~~Board Department~~ of Public and Behavioral Health and Environmental Control. Re-evaluation will not be required for employment in consecutive years unless otherwise indicated by such guidelines.”

C. Section 44-29-210(A) of the 1976 Code is amended to read:

“(A) If ~~the Board of the Department of Health and Environmental Control or the Director of the Department of~~ Public and Behavioral Health and Environmental Control approves in writing a mass immunization project to be administered in any part of this State in cooperation with an official or volunteer medical or health agency, any authorized employee of the agency, any physician who does not receive compensation for his services in the project, and any licensed nurse who participates in the project, except as provided in subsection (B), is not liable to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine administered in the project by the employee, physician, or nurse. ~~Neither the board nor~~ The director may not approve the project unless either the department finds that the project conforms to good medical and public health practice.

For purposes of this section, a person is considered to be an authorized employee of an official or volunteer medical or health agency if he has received the necessary training for and approval of the department for participation in the project.”

SECTION 21.A. Section 44-53-160(C) of the 1976 Code, as last amended by Act 216 of 2018, is further amended to read:

“(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, ~~at the first regular or special meeting of the South Carolina Board of Health and Environmental Control~~ within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. 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 Chairman of the Medical, Military, Public and Municipal Affairs Committee, the Chairman of the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change."

B. Section 44-53-280(C) and (D) of the 1976 Code, as last amended by Act 216 of 2018, is further amended to read:

"(C) A class 20-28 registration, as provided for by the ~~board~~ department in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20-28, as provided for by the ~~board~~ department in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew."

C. Section 44-53-290(i) of the 1976 Code, as last amended by Act 216 of 2018, is further amended to read:

"(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The ~~board~~ department shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both:

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the ~~board~~ department determines that the applicant will comply with standards established by the ~~board~~ department respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44-53-340 and the rules issued by the ~~board~~ department on such drugs; and

(3) if the ~~board~~ department determines that the applicant will comply with standards established by the ~~board~~ department respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment."

D. Section 44-53-310(a) of the 1976 Code before the numbered items is amended to read:

"(a) An application for a registration or a registration granted pursuant to Section 44-53-300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the ~~Board~~ department upon a finding that the registrant:"

E. Section 44-53-320(b) of the 1976 Code is amended to read:

"(b) The department, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 44-53-310, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 44-53-290(i) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the ~~Board~~ department or dissolved by a court of competent jurisdiction."

F. Section 44-53-360(g) of the 1976 Code is amended to read:

"(g) The ~~Board~~ department shall, by rules and regulations, specify the manner by which prescriptions are filed."

G. Section 44-53-740 of the 1976 Code is amended to read:

"Section 44-53-740. The ~~Board of the Department of Public and Behavioral Health and Environmental Control~~ shall promulgate regulations necessary to carry out the provisions of this article."

SECTION 22.A. Section 44-55-20(1), (2), and (7) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Safe Drinking Water Act~~ Reserved.

(2) ~~‘Commissioner’~~ ‘Director’ means the ~~commissioner~~ director of the department or his authorized agent.

(7) ~~‘Department’ means the South Carolina Department of Health and Environmental Control~~ Services, including personnel authorized and empowered to act on behalf of the department ~~or board~~.”

B. Section 44-55-30 of the 1976 Code is amended to read:

“Section 44-55-30. In general, the design and construction of any public water system must be in accord with modern engineering practices for these installations. The ~~board~~ department shall establish regulations, procedures, or standards as may be necessary to protect the health of the public and to ensure proper operation and function of public water systems. These regulations may prescribe minimum design criteria, the requirements for the issuance of construction and operation permits, operation and maintenance standards, and bacteriological, chemical, radiological, and physical standards for public water systems, and other appropriate regulations.”

C. Section 44-55-40(G), (K), (L), and (O) of the 1976 Code is amended to read:

“(G) The department may authorize variances or exemptions from the regulations issued pursuant to this section under conditions and in such manner as the ~~board~~ department considers necessary and desirable; however, these variances or exemptions must be permitted under conditions and in a manner which is not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal Safe Drinking Water Act.

(K) The ~~Commissioner~~ Director of the Department of ~~Health and Environmental Control~~ Services shall classify all public water system treatment facilities giving due regard to the size, type, complexity, physical condition, source of supply, and treatment process employed by the public water system treatment facility and the skill, knowledge, and experience necessary for the operation of these facilities. Each treatment facility must be classified at the highest applicable level of the following classification system, with Group VII Treatment being the highest classification level:

Group I Treatment. A facility which provides disinfection treatment using a sodium hypochlorite or calcium hypochlorite solution as the disinfectant.

Group II Treatment. A facility which provides disinfection treatment using gaseous chlorine or chloramine disinfection or includes sequestering, fluoridation, or corrosion control treatment.

Group III Treatment. A facility treating a groundwater source which is not under the direct influence of surface water, utilizing aeration, coagulation, sedimentation, lime softening, filtration, chlorine dioxide, ozone, ~~ultra-violet~~ ultraviolet light disinfection, powdered activated carbon addition, granular activated carbon filtration or ion exchange, or membrane technology or that includes sludge storage or a sludge dewatering process.

Group IV Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing aeration, coagulation, clarification with a minimum detention time of two hours in the clarification unit, lime softening, rapid rate gravity filtration (up to four gallons per minute per square foot), slow sand filtration, chlorine dioxide, powdered activated carbon addition, or granular activated carbon filtration or ion exchange or that includes sludge storage or a sludge dewatering process. This classification also includes any treatment facility which does not provide filtration for a surface water source or a groundwater source which is under the direct influence of surface water.

Group V Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing high rate gravity filtration (greater than four gallons per minute per square foot), clarification with a detention time of less than two hours in the clarification unit, diatomaceous earth filtration, or ultraviolet light disinfection.

Group VI Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing direct filtration, membrane technology, or ozone.

Group VII Treatment. Drinking water dispensing stations and vending machines which utilize water from an approved public water system or bottled water plants which treat water from the distribution system of a public water system or from a groundwater source which is not under the direct influence of surface water.

(L) The ~~Commissioner~~ Director of the Department of ~~Health and Environmental Control~~ Services shall classify all public water distribution systems giving due regard to the size, type, and complexity of the public water distribution system and the skill, knowledge, and experience necessary for the operation of these systems. The classification must be based on:

Group I Distribution. Distribution systems associated with state and transient noncommunity water systems.

Group II Distribution. Distribution systems associated with community and nontransient noncommunity public water systems which have a reliable production capacity not greater than six hundred thousand gallons a day and which do not provide fire protection.

Group III Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than six hundred thousand gallons a day but not greater than six million gallons a day (MGD) or have a reliable production capacity not greater than six hundred thousand gallons a day and provide fire protection.

Group IV Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity than six MGD, but not greater than twenty MGD.

Group V Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than twenty MGD.

(O) The ~~board~~ department, to ensure that underground sources of drinking water are not contaminated by improper well construction and operation, may promulgate regulations as developed by the Advisory Committee established pursuant to Section 44-55-45, setting standards for the construction, maintenance, operation, and abandonment of any well except for wells where well construction, maintenance, and abandonment are regulated by the Groundwater Use Act of 1969, Sections 49-5-10 et seq.; the Oil and Gas Exploration, Drilling, Transportation, and Production Act, Sections 48-43-10 et seq.; or the Water Use Reporting and Coordination Act, Section 49-4-10 et seq. For these excepted wells, the ~~board~~ department may promulgate regulations. The ~~board~~ department shall further ensure that all wells are constructed in accordance with the standards. The ~~board~~ department shall make available educational training on the standards to well drillers who desire this training.”

D. Section 44-55-45 of the 1976 Code is amended to read:

“Section 44-55-45. An advisory committee to the ~~board~~ department must be appointed for the purpose of advising the ~~board~~ department during development or subsequent amendment of regulatory standards for the construction, maintenance, operation, and abandonment of wells subject to the jurisdiction of the board. The Advisory Committee is composed of eight members appointed by the board. Five members must be active well drillers; one member must be a registered professional engineer with experience in well design and construction; one member must be a consulting hydrogeologist with experience in well design and construction; and one member must be engaged in farming and shall represent the public at large. Three ex officio members shall also serve on the Advisory Committee, one of whom must be an employee of the Department of ~~Health and Environmental Control~~ Services, and appointed by the ~~commissioner~~ director; and two of whom must be employees of the South Carolina Department of Natural Resources and appointed by the director.

The term of office of members of the Advisory Committee is for four years and until their successors are appointed and qualify. No member may serve more than two consecutive terms. The initial terms of office must be staggered and any member may be removed for cause after proper notification and an opportunity to be heard.”

E. Section 44-55-50(A) and (B) of the 1976 Code is amended to read:

“(A) In establishing regulations, procedures, and standards under Section 44-55-30 and in exercising supervisory powers under Section 44-55-40 the ~~board or~~ department must not prohibit or fail to include provisions for recreational activities including boating, water skiing, fishing, and swimming in any reservoir without first making and publishing specific findings that these recreational activities would be injurious to the public health and assigning with particularity the factual basis and reasons for these decisions.

(B) If the ~~board or~~ department determines that these recreational activities would be injurious to the public health it shall cause to have published at least once a week for six consecutive weeks in a newspaper of general circulation in the county or area affected a summary of its findings. Any citizen of this State who objects to the findings of the ~~board or~~ department is entitled to request a public hearing, which the ~~board or~~ department shall conduct within thirty days after the request. The public hearing must be a formal evidentiary hearing where testimony must be recorded. After the hearing the ~~board or~~ department shall review its initial findings and shall within thirty days after the hearing affirm or reevaluate its findings in

writing and give notice to known interested parties. The findings of the ~~board or~~ department may be appealed to the circuit court, which is empowered to modify or overrule the findings if the court determines the findings to be arbitrary or unsupported by the evidence. Notice of intention to appeal must be served on the ~~board or~~ department within fifteen days after it has affirmed or reevaluated its initial findings and copies also must be served on known interested parties.”

F. Section 44-55-60 of the 1976 Code is amended to read:

“Section 44-55-60. (A) An imminent hazard is considered to exist when in the judgment of the ~~commissioner~~ director there is a condition which may result in a serious immediate risk to public health in a public water system.

(B) In order to eliminate an imminent hazard, the ~~commissioner~~ director may, without notice or hearing, issue an emergency order requiring the water system to immediately take such action as is required under the circumstances to protect the public health. A copy of the emergency order must be served by certified mail or other appropriate means. An emergency order issued by the ~~commissioner~~ director must be effected immediately and binding until the order is reviewed and modified by the ~~board~~ department or modified or rescinded by a court of competent jurisdiction.”

G. The paragraph after the numbered items in Section 44-55-70 of the 1976 Code is amended to read:

“The ~~board~~ department shall prescribe procedures for the public notice, including procedures for notification by publication in a newspaper of general circulation, notification to be given in the water bills of the systems, as long as a condition of violation exists, and other notification as is considered appropriate by the ~~board~~ department.”

H. Section 44-55-120(C) of the 1976 Code is amended to read:

“(C) There is established a Safe Drinking Water Advisory Committee for the purpose of advising and providing an annual review to the department and General Assembly on the fee schedule and the use of revenues deposited in the Drinking Water Trust Fund. The Governor shall appoint the advisory committee which must be composed of one member representing water systems with fifty thousand or more service connections, one member representing water systems with at least twenty-five thousand but fewer than fifty thousand service connections, one member representing water systems with at least ten thousand but fewer than twenty-five thousand water service connections, one member representing water systems with at least one thousand but fewer than ten thousand service connections, one member representing water systems with fewer than one thousand service connections, and the Executive Director of the Office of Regulatory Staff and the ~~Commissioner~~ Director of the Department of ~~Health and Environmental Control~~ Services, or a designee.”

I. Section 44-55-690 of the 1976 Code is amended to read:

“Section 44-55-690. The county board of health may permit and approve the installation of temporary septic tanks in the case of unusual, temporary or emergency conditions. Such temporary septic tank shall be constructed and installed in accordance with the specifications, rules and regulations promulgated by the county board of health relating to the use of such tanks, and the ~~board~~ department may determine the period of time for which such temporary septic tank may be used.”

J. Section 44-55-860 of the 1976 Code is amended to read:

“Section 44-55-860. Whenever any lot or parcel of land without improvement thereon upon which an owner intends to construct a building or place a mobile home is not accessible to a sewer line for a tap-on and the county board of health or other appropriate agency in which the lot or parcel of land is situated certifies that such lot or land is not suitable to accommodate a septic tank or other individual sewage disposal system, the ~~board or agency~~ department shall state in writing to the owner within thirty days following inspection of the property the reason such septic tank or system cannot be used. At the same time the ~~board or agency~~ department shall inform the owner of the property in detail of any corrective measures that may be taken to remedy the sewage problem.”

K. The Code Commissioner is directed to change all references to the “Department of Health and Environmental Control” in Chapter 55, Title 44 of the 1976 Code to the “Department of Environmental Services.”

SECTION 23.A. Section 44-56-20(1) and (3) of the 1976 Code is amended to read:

~~“(1) ‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Hazardous Waste Management Act~~ Reserved.

~~(3) ‘Department’ means the Department of Health and Environmental Control~~ Services, including personnel thereof authorized by ~~the board~~ to act on behalf of the department ~~or board~~.”

B. Section 44-56-30 of the 1976 Code is amended to read:

“Section 44-56-30. The ~~board~~ department shall promulgate such regulations, procedures or standards as may be necessary to protect the health and safety of the public, the health of living organisms and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes. Such regulations may prescribe contingency plans; the criteria for the determination of whether any waste or combination of wastes is hazardous; the requirements for the issuance of permits required by this chapter; standards for the transportation, containerization, and labeling of hazardous wastes consistent with those issued by the United States Department of Transportation; operation and maintenance standards; reporting and record keeping requirements; and other appropriate regulations.”

C. Section 44-56-60(a)(1) of the 1976 Code is amended to read:

“(1) In order to provide the General Assembly with the information it needs to accomplish the above goals, the Department of ~~Health and Environmental Control~~ Services shall evaluate annually the effects of new and existing waste management technologies, alternate methods of storage or disposal, recycling, incineration, waste minimization laws and practices, and other factors that tend to reduce the volume of hazardous waste. The results of the department’s evaluation must be reported to the General Assembly not later than February first of each year, beginning in 1991, in a form that will permit the General Assembly to determine whether or not hazardous waste landfill capacity in this State should be reduced.”

D. Section 44-56-100 of the 1976 Code is amended to read:

“Section 44-56-100. The ~~board~~ department may issue, modify, or revoke any order to prevent any violation of this chapter.”

E. Section 44-56-130(3) of the 1976 Code is amended to read:

“(3) It shall be unlawful for any person to fail to comply with this chapter and rules and regulations promulgated pursuant to this chapter; to fail to comply with any permit issued under this chapter; or to fail to comply with any order issued by the ~~board~~, director, or department.”

F. Section 44-56-160(A) of the 1976 Code is amended to read:

“(A)The Department of ~~Health and Environmental Control~~ Services is directed to establish a Hazardous Waste Contingency Fund to ensure the availability of funds for response actions necessary at permitted hazardous waste landfills and necessary from accidents in the transportation of hazardous materials and to defray the costs of governmental response actions at uncontrolled hazardous waste sites. The contingency fund must be financed through the imposition of fees provided in Sections 44-56-170 and 44-56-510 and annual appropriations which must be provided by the General Assembly.”

G. Section 44-56-200(A) of the 1976 Code is amended to read:

“(A)The Department of ~~Health and Environmental Control~~ Services is empowered to implement and enforce the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510), and subsequent amendments to Public Law 96-510 as of the effective date of the amendments.”

H. Section 44-56-210 of the 1976 Code is amended to read:

“Section 44-56-210. The Department of ~~Health and Environmental Control~~ Services, in its discretion, shall assign not more than two full-time health inspectors to serve at each commercial hazardous waste treatment, storage, and disposal facility located in South Carolina for the purpose of assuring the protection of the health and safety of the public by monitoring the receipt and handling of hazardous waste at these sites. For any facilities to which a full-time inspector is not assigned, there must be one or more inspectors who shall monitor these facilities on a rotating basis.

The department shall implement a fee schedule to cover the costs of implementing this inspection program and the fees must be collected by the facilities from the hazardous waste generators utilizing these sites.”

I. Section 44-56-405 of the 1976 Code is amended to read:

“Section 44-56-405. The purpose of the South Carolina Drycleaning Facility Restoration Trust Fund is to collect and manage funds for the investigation and remediation of environmental contamination arising from the operation of eligible drycleaning facilities and eligible wholesale supply facilities. The Department of Revenue shall collect, and enforce the payment of surcharges and fees, which constitute the fund, as required by this article. The Department of ~~Health and Environmental Control~~ Services shall administer the fund to ensure that the sites that pose the greatest threat to human health and the environment are remediated first and that the remediation is accomplished in compliance with this article.”

J. Section 44-56-410(2) of the 1976 Code is amended to read:

“(2) ‘Department’ means the Department of ~~Health and Environmental Control~~ Services.”

K. Section 44-56-420(B) of the 1976 Code is amended to read:

“(B) ~~The board of the~~ Department of ~~Health and Environmental Control~~ Services shall establish a moratorium on administrative and judicial actions by the department concerning drycleaning facilities and wholesale supply facilities resulting from the release of drycleaning solvent to soil or waters of the State. This moratorium applies only to those sites deemed eligible as defined in Section 44-56-470. ~~The board~~ department may review and determine the appropriateness of the moratorium as needed. The review by the ~~board~~ department must include, but is not limited to, consideration of these factors:

- (1) the solvency of the fund as described in this article;
- (2) prioritization of the sites;
- (3) public health concerns related to the sites;
- (4) eligibility of the sites; and
- (5) corrective action plans submitted to the department. After review, the ~~board~~ department may suspend all or a portion of the moratorium if necessary.”

L. Section 44-56-495(C) of the 1976 Code is amended to read:

“(C) Members enumerated in subsections (B)(1) through (B)(3) are appointed by ~~the board of the~~ Department of ~~Health and Environmental Control~~ Services and shall serve terms of two years and until their successors are appointed. The chairman of the council is elected by the members of the council at the first meeting of each new term.”

M. Section 44-56-720(4) of the 1976 Code is amended to read:

“(4) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Services.”

N. Section 44-56-840(A)(6) of the 1976 Code is amended to read:

“(6) the Director of the Department of ~~Health and Environmental Control~~ Services or his designee;”

SECTION 24.A. Section 44-61-20(5) and (8) of the 1976 Code is amended to read:

“(5) ‘Board’ means ~~the governing body of the Department of Health and Environmental Control or its designated representative~~ Reserved.

(8) 'Department' means the administrative agency known as the Department of Public and Behavioral Health and Environmental Control.

B. Section 44-61-30(A) and (C) of the 1976 Code is amended to read:

“(A) The Department of Public and Behavioral Health and Environmental Control, with the advice of the Emergency Medical Services Advisory Council and the State Medical Control Physician, shall develop standards and promulgate regulations for the improvement of emergency medical services (hereinafter referred to as EMS) in the State. All administrative responsibility for this program is vested in the department.

(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Public and Behavioral Health and Environmental Control, the South Carolina Medical Association, the South Carolina Trauma Advisory Council, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the ~~board~~ department. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems. The advisory council shall serve without compensation, mileage, per diem, or subsistence.”

C. Section 44-61-40(B) of the 1976 Code is amended to read:

“(B) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the ~~board~~ department and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to Article 3, Chapter 23, Title 1.”

D. Sections 44-61-50 and 44-61-60 of the 1976 Code are amended to read:

“Section 44-61-50. A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations promulgated by the ~~board~~ department. Absent revocation or suspension, permits issued for ambulances are valid for a period not to exceed two years.

Section 44-61-60. (A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the ~~board~~ department and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the ~~board~~ department.

(B) The transportation of patients and the provision of emergency medical services shall conform to standards promulgated by the ~~board~~ department.”

E. Section 44-61-70(C) of the 1976 Code is amended to read:

“(C) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article or regulation of the ~~board~~ department promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense.

Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.”

F. Section 44-61-80(G) of the 1976 Code is amended to read:

“(G) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the ~~board~~ department; and all such training courses shall be supervised by certified instructors.”

G. Section 44-61-130 of the 1976 Code is amended to read:

“Section 44-61-130. A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the ~~board~~ department may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Public and Behavioral Health and Environmental Control certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the ~~department of Health and Environmental Control~~ for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.”

H. Section 44-61-310(3), (4), (5), and (9) of the 1976 Code is amended to read:

“(3) ‘Board’ means the governing body of the ~~Department of Health and Environmental Control or its designated representative~~ Reserved.

(4) ‘Department’ means the Division of Emergency Medical Services and Trauma within the Department of Public and Behavioral Health and Environmental Control.

(5) ‘Director’ means the Director of the Department of Public and Behavioral Health and Environmental Control.

(9) ‘Manager’ means the person coordinating the EMSC Program within the Department of Public and Behavioral Health and Environmental Control.”

I. Section 44-61-350(B) of the 1976 Code is amended to read:

“(B) Committee members must be appointed by the ~~board~~ department.”

J. Section 44-61-720(19) of the 1976 Code, as added by Act 248 of 2018, is amended to read:

“(19) ‘State EMS authority’ means the ~~board~~ department, office, or other agency with the legislative mandate to license EMS personnel.”

K. Section 44-61-800(B)(1) of the 1976 Code, as added by Act 248 of 2018, is amended to read:

“(1) Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one ~~board~~ department, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.”

SECTION 25. Section 44-63-110 of the 1976 Code is amended to read:

“Section 44-63-110. For making, furnishing, or certifying any card, certificate, or certified copy of the record, for filing a record amendment according to the provisions of Section 44-63-60, 44-63-80, 44-63-90 or 44-63-100, or for searching the record, when no card, certificate, or certified copy is made, a fee in an amount as determined by the ~~Board of the~~

Department of Public and Behavioral Health and Environmental Control must be paid by the applicant, except that the Department of Social Services or its designee is not required to pay a fee when the information is needed for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation. The amount of the fee established by the ~~board~~ department may not exceed the cost of the services performed and to the extent possible must be charged on a uniform basis throughout the State. When verification of the facts contained in these records is needed for Veterans Administration purposes in connection with a claim, it must be furnished without charge to the Veterans' Affairs Department of the Governor's Office or to a county veterans affairs officer upon request and upon the furnishing of satisfactory evidence that the request is for the purpose authorized in this chapter."

SECTION 26.A. Section 44-69-20(1) and (3) of the 1976 Code is amended to read:

"(1) '~~Board~~' shall mean the South Carolina Board of Health and Environmental Control Reserved.

(3) '~~Department~~' shall ~~mean~~ means South Carolina Department of Public and Behavioral Health and Environmental Control."

B. Section 44-69-30 of the 1976 Code is amended to read:

"Section 44-69-30. No person, private or public organization, political subdivision, or other governmental agency shall establish, conduct, or maintain a home health agency or represent itself as providing home health services without first obtaining a license from the Department of Public and Behavioral Health and Environmental Control. This license is effective for a twelve-month period following the date of issue. A license issued under this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this act. Subunits of parent home health agencies must be separately licensed.

The department may enter into public and private joint partnerships or enter into other appropriate cooperative agreements or arrangements or negotiate and effect these partnerships and agreements to include the sale of the entity and/or the transfer of licenses held by the department or its subdivisions to other qualified providers, if appropriate, when doing so would result in continued high quality patient care, continued provision of services to indigent patients, assurance of the employment of the department's home health employees, and provision of home care services adequate to meet the needs of the State. The department may facilitate the negotiation, contracting, or transfer of these activities through licensure and without requirement of a Certificate of Need as set out in Section 44-69-75 and without regard to the Procurement Code, Section 11-35-10, et. seq. However, a sale of the entity is subject to the provisions of the Procurement Code.

At least thirty days before entering any negotiations regarding a contractual agreement or a public/private partnership concerning the provision of home health services, the department shall place a public notice in a newspaper of general circulation for a period of no less than three consecutive days within the area where the services will be performed.

The department may establish requirements and conditions upon those entities joined in partnership or receiving transfer of the home care services, licensing, and Certificate of Need including, but not limited to, transfer of employees, coverage of indigent patients, and payments or contributions to the department to continue the provision of basic public health services as determined by the department. ~~All agreements must be reviewed and approved by the board of the department.~~ The department may monitor and enforce the contract or partnership provisions and/or conditions of transfer or any other conditions or requirements of agreements entered into pursuant to this section.

All funds paid to or received by the department pursuant to this section must be deposited in an account separate and distinct from the general fund entitled the Public Health Fund (PHF). The funds deposited in this fund must be used solely by the department to support basic public health services determined to be necessary by the department. The appropriation of the funds must be through the general appropriations act.

Notwithstanding any of the provisions of this section, the department may continue to provide public health services in the clinic, the home, and the community necessary to ensure the protection and promotion of the public's health."

C. Section 44-69-50 of the 1976 Code is amended to read:

"Section 44-69-50. Reasonable fees shall be established by the ~~Board~~ department. Such fees shall be paid into the State Treasury or refunded to the applicant if the license is denied. Governmental home health agencies are exempt from payment of license fees."

SECTION 27. Section 44-71-20(1) and (2) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control~~ Reserved.

(2) ‘Department’ means the South Carolina Department of Public and Behavioral Health and Environmental Control.”

SECTION 28.A. Section 44-75-20(c) and (d) of the 1976 Code is amended to read:

“(c) ‘Department’ means the Department of Public and Behavioral Health and Environmental Control.

(d) ~~‘Board’ means the Board of Health and Environmental Control~~ Reserved.”

B. 1. Section 44-75-30(b) of the 1976 Code is amended to read:

“(b) An Athletic Trainers’ Advisory Committee is created consisting of nine members appointed by the ~~board~~ department. Two members must be from the department, one must be from the State Board of Medical Examiners, four must be certified athletic trainers, and two must be from the general public who are not certified or licensed in any health care field and are not connected in any way with athletic trainers.”

2. The undesignated paragraph immediately following Section 44-75-30(b) of the 1976 Code is amended to read:

“Membership on the committee is by appointment by the ~~board~~ department. The terms of the members are for four years or until successors are appointed except that of those first appointed four are appointed to a term of two years.”

C. Section 44-75-40(e) of the 1976 Code is amended to read:

“(e) Any person whose application is denied, suspended, or revoked is entitled to a hearing before the ~~board~~ department if he submits a written request to the ~~board~~ department. Proceedings for denial, revocation, or suspension of a certificate must be conducted consistent with Act 176 of 1977 (Administrative Procedures Act).”

SECTION 29. Section 44-89-30(2) and (4) of the 1976 Code is amended to read:

“(2) ~~‘Board’ means the South Carolina Board of Health and Environmental Control~~ Reserved.

(4) ‘Department’ means the South Carolina Department of Public and Behavioral Health and Environmental Control.”

SECTION 30.A. Section 44-93-20(C) and (F) of the 1976 Code is amended to read:

“(C) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Infectious Waste Management Act~~ Reserved.

(F) ‘Department’ means the Department of ~~Health and Environmental Control~~ Services, including personnel of the department authorized by the ~~board~~ to act on behalf of the department ~~or board.~~”

B. Section 44-93-150(A) of the 1976 Code is amended to read:

“(A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this chapter, the department may issue an order requiring the person to comply with the permit, regulation, standard, or requirement or the department may bring civil action for injunctive relief in the appropriate court; or, the department may request that the Attorney General bring civil or criminal enforcement action under subsection (B) or (C) of this section. Violation of a court order issued pursuant to this section is contempt of the issuing court and punishable as provided by law. The department also may invoke civil penalties as provided in this section for violations of the provisions of this chapter, including an order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department ~~or board~~ to the Court of Common Pleas.”

C. Section 44-93-160(B) of the 1976 Code before the numbered items is amended to read:

“(B) The owner or operator of a facility required to be permitted pursuant to this chapter treating infectious waste shall submit, not later than the tenth day of each month, to the Department of ~~Health and Environmental Control~~ Services.”

SECTION 31.A. Section 44-96-40(9), (24), (29), (51), and (55) of the 1976 Code is amended to read:

“(9) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Services.

(24) ‘Lead-acid battery collection facility’ means a facility authorized by the Department of ~~Health and Environmental Control~~ Services to accept lead-acid batteries from the public for temporary storage prior to recycling.

(29) ‘Office’ means the Office of Solid Waste Reduction and Recycling established within the Department of ~~Health and Environmental Control~~ Services pursuant to Section 44-96-110.

(51) ‘Solid Waste Management Trust Fund’ means the trust fund established within the Department of ~~Health and Environmental Control~~ Services pursuant to Section 44-96-120.

(55) ‘State solid waste management plan’ means the plan which the Department of ~~Health and Environmental Control~~ Services is required to submit to the General Assembly and to the Governor pursuant to Section 44-96-60.”

B. Section 44-96-85(A) of the 1976 Code, as added by Act 170 of 2018, is amended before the numbered items to read:

“(A) There is established a Solid Waste Emergency Fund to be administered by the Department of ~~Health and Environmental Control~~ Services.”

C. Section 44-96-100(A) of the 1976 Code is amended to read:

“(A) Whenever the department determines that a person is in violation of a regulation promulgated pursuant to this article regarding Sections 44-96-160(X) (Used Oil), 44-96-170(H) (Waste Tires), or 44-96-190(A) (Yard trash, compost), the department may issue an order requiring the person to comply with the regulation or the department may bring civil action for injunctive relief in the appropriate court or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties not to exceed ten thousand dollars, for each day of violation, for violations of the regulations promulgated pursuant to this article regarding Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A). After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department ~~or board of~~ to the court of common pleas, pursuant to the Administrative Procedures Act.”

D. Section 44-96-120(C) of the 1976 Code is amended to read:

“(C) The department shall report on a quarterly basis to the State Solid Waste Advisory Council, House Ways and Means Committee, Senate Finance Committee, and the Joint Legislative Committee on Energy on the condition of the Solid Waste Management Trust Fund and on the use of all funds allocated from the Solid Waste Management Trust Fund. Quarterly reports shall be made not later than sixty days after the last day of each fiscal quarter beginning with the first full quarter after this chapter is effective. Notwithstanding Chapter 39 of Title 11, the Department of ~~Health and Environmental Control~~ Services, through the Office of Solid Waste Reduction and Recycling, shall make decisions on the allocation of oil overcharge funds transferred to the Solid Waste Management Trust Fund pursuant to Section 44-96-120(B)(9). The department’s decisions shall be made upon the approval of the statewide Solid Waste Advisory Council and after consultation with the Governor’s Office and the Joint Legislative Committee on Energy to ensure that the funds are administered according to decisions of the federal courts and requirements of the United States Department of Energy. If all oil overcharge funds transferred to the Solid Waste Management Trust Fund are not committed for projects or programs authorized by this chapter five years from the date this chapter is effective, they shall be returned to the Governor’s Office.”

E. Section 44-96-165 of the 1976 Code is amended to read:

“Section 44-96-165. The Department of ~~Health and Environmental Control~~ Services, with the approval of the State Auditor, shall contract with one or more qualified, independent certified public accountants on a one-year basis to audit revenues and disbursements from the Solid Waste Management Trust Fund and the Waste Tire Trust Fund established pursuant to Section 44-96-120 and from the Petroleum Fund established pursuant to Section 44-96-160(V). The auditors may audit relevant records of a public or private entity that has submitted, kept, handled, or tracked monies for any of the three funds. This contract must be funded by the Solid Waste Management Trust Fund, the Petroleum Fund, and the Waste Tire Trust Fund.”

F. 1. In the fourth undesignated paragraph of Section 44-96-170(N) of the 1976 Code is amended to read:

“The remaining portion of the tire recycling fee is to be credited to the Solid Waste Management Trust Fund by the State Treasurer for the Waste Tire Grant Trust Fund, established under the administration of the South Carolina Department of ~~Health and Environmental Control~~ Services.”

2. Section 44-96-170(P) of the 1976 Code is amended to read:

“(P) The Office of Solid Waste Reduction and Recycling of the Department of ~~Health and Environmental Control~~ Services may provide grants from the Waste Tire Trust Fund to counties which have exhausted all funds remitted to counties under Section 44-96-170(N), to regions applying on behalf of those counties and to local governments within those counties to assist in the following:

- (1) constructing, operating, or contracting with waste tire processing or recycling facilities;
- (2) removing or contracting for the removal of waste tires for processing or recycling;
- (3) performing or contracting for the performance of research designed to facilitate waste tire recycling; or
- (4) the purchase or use of recycled products or materials made from waste tires generated in this State.”

3. Section 44-96-170(Q)(4) of the 1976 Code is amended to read:

“(4) the South Carolina Department of ~~Health and Environmental Control~~ Services;”

G. Section 44-96-250(B)(4) of the 1976 Code is amended to read:

“(4) ‘Director’ means the Director of the South Carolina Department of ~~Health and Environmental Control~~ Services.”

H. Section 44-96-440(C) of the 1976 Code is amended to read:

“(C) It shall be unlawful for any person to fail to comply with this article and any regulations promulgated pursuant to this article, or to fail to comply with any permit issued under this article, or to fail to comply with any order issued by the ~~board, commissioner, director~~ or department.”

I. Section 44-96-450(A) of the 1976 Code is amended to read:

“(A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this article, the department may issue an order requiring the person to comply with the permit, regulation, standard, or requirement, or the department may bring civil action for injunctive relief in the appropriate court, or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties established by regulation, not to exceed ten thousand dollars for each day of violation, for violations of the provisions of this article, including any order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department ~~or board~~ to the court of common pleas.”

SECTION 32. Title 46 of the 1976 Code is amended by adding:

“CHAPTER 57

Food Safety

Section 46-57-10. (A) For the purposes of this section:

- (1) 'Home-based food production operation' means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.
- (2) 'Nonpotentially hazardous foods' means candy and baked goods that are not potentially hazardous foods.
- (3) 'Person' means an individual consumer.
- (4) 'Potentially hazardous foods' means:
 - (a) an animal food that is raw or heat-treated, a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation, or garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;
 - (b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:

	Aw values	pH values	
	4.6 or less	>4.6--5.6	>5.6
(1)	<0.92 non-PHF	non-PHF	non-PHF
(2)	>0.92--0.95 non-PHF	non-PHF	PHF
(3)	>0.95 non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items including, but not limited to:

- (1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;
- (2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;
- (3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;
- (4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and
- (5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

- (1) department-approved water supply;
- (2) a separate storage place for ingredients used in foods intended for sale;
- (3) a properly functioning refrigeration unit;
- (4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;
- (5) adequate facilities for the storage of utensils and equipment;
- (6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;
- (7) a properly functioning toilet facility;
- (8) no evidence of insect or rodent activity; and
- (9) department-approved sewage disposal, either on-site treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

- (1) the name and address of the home-based food production operation;
- (2) the name of the product being sold;
- (3) the ingredients used to make the product in descending order of predominance by weight; and
- (4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: 'NOT FOR RESALE - PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS.'

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

Section 46-57-20. (A) Notwithstanding any other provision of law, ground beef or any food containing ground beef prepared by a food service provider for public consumption must be cooked to heat all parts of the food to at least one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, unless otherwise ordered by the immediate consumer.

(B) The food service provider, its business or its employees or agents, are not liable for any adverse effects to the purchaser or anyone else for providing a ground beef product cooked at an internal temperature less than one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, if providing the product is at the request of the purchaser and if the food service provider has notified the purchaser in advance that a possible health risk may exist by eating the product. The notice must state that a possible health risk may exist in eating undercooked ground beef at an internal temperature less than one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, and be given to the purchaser:

- (1) in writing;
- (2) as stated on the menu; or
- (3) by visible sign warning.

(C) In order for an immediate consumer or purchaser, as used in this section, to request or order ground beef to be cooked to a temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), the individual must be eighteen years of age or older.

Section 46-57-30. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer.

Section 46-57-40. The department may not use any funds appropriated or authorized to the department to enforce Regulation 61-25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.

Section 46-57-45. (A) Except as provided in Section 46-57-50, a person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Agriculture promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to to this chapter is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term "notice" as used in this section means either actual notice or constructive notice.

Section 46-57-50. (A) Notwithstanding any other provision of law, shellfish that is the subject of a violation of law, including regulations, may be confiscated and disposed of at the discretion of the arresting officer.

(B) A person convicted of a second offense of harvesting shellfish in a polluted area, upon conviction, must be fined not less than two hundred dollars and not more than five hundred dollars or imprisoned for not less than thirty days and not more than sixty days.

(C) A person convicted of a third or subsequent offense of harvesting shellfish in a polluted area, upon conviction, must be fined not less than five hundred dollars and not more than one thousand or imprisoned for not less than sixty days and not more than ninety days.

(D) All equipment including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a first offense of harvesting shellfish in any polluted area, may be impounded at the discretion of the arresting officer. The equipment impounded must be delivered to the sheriff of the county in which the arrest was made and must be retained by the sheriff. The equipment may not be returned to the owner until the case has been finally disposed of. All equipment including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a second, third, or subsequent offense of harvesting shellfish in a polluted area, must be confiscated. All confiscated equipment must be sold at auction by the sheriff of the county in which the second, third, or subsequent offense took place and by a representative of the Department of Agriculture, except for weapons, which, following confiscation, must be disposed of in the manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.

Section 46-57-60. Notwithstanding any other provision of law, all revenue from a fine or a forfeiture of bond for a violation of a shellfish law or regulation provided by this title must be deposited monthly with the treasurer of the county in which the arrest for the violation was made. One-third of the revenue must be retained by the county treasurer to be used for the general operating needs of the county pursuant to the direction of the governing body of the county. Two-thirds of the revenue must be remitted quarterly to the Department of Agriculture of which one-half is to be used in enforcing shellfish laws and regulations and one-half is to be remitted quarterly to the state's general fund. All monies derived from auction sales of confiscated equipment pursuant to Section 46-57-50 must be deposited, retained, remitted, and used in the same manner as provided in this section for all revenue derived from a fine or a violation of a shellfish law or regulation. A report of fines for forfeitures of bonds regarding shellfish violations must be sent to the department monthly by each magistrate and clerk of court in this State. A report of monies derived from auction of sales of confiscated equipment must be sent to the department monthly by each sheriff.

Section 46-57-70. When a person is apprehended by a shellfish patrolman upon a charge of violating the health and sanitary aspects of shellfish, crab, and shrimp laws or regulations, the person upon being served with a summons by the patrolman in lieu of being immediately brought before the proper judicial officer may enter into a formal recognizance or deposit a proper sum of money in lieu of a recognizance or incarceration with the patrolman as bail which must not be less than the minimum or more than the maximum fine, but in no case exceed one hundred dollars. The bail must be turned over to the proper judicial officer. A receipt for the sum deposited must be given to the person by the patrolman. The summons duly served must give the judicial officer jurisdiction to dispose of the matter. Upon receipt of bail the patrolman shall release the person so charged, and the person may appear in court at the time stated in and required by the summons."

SECTION 33. Section 47-5-20(2) of the 1976 Code is amended to read:

"(2) 'Department' means the South Carolina Department of ~~Health and Environmental Control, including county health departments~~ Environmental Services."

SECTION 34.A. Section 48-1-10(9) of the 1976 Code is amended to read:

"(9) 'Department' means the Department of ~~Health and Environmental Control~~ Environmental Services;"

B. Section 48-1-20 of the 1976 Code is amended to read:

"Section 48-1-20. It is declared to be the public policy of the State to maintain reasonable standards of purity of the air and water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine flora and fauna, and the protection of physical property and other resources. It is further declared that to secure these purposes and the enforcement

of the provisions of this chapter, the Department of ~~Health and Environmental Control~~ Environmental Services shall have authority to abate, control and prevent pollution.”

C. Section 48-1-55 of the 1976 Code is amended to read:

“Section 48-1-55. On any navigable river in this State where an oyster factory is located, the Department of ~~Health and Environmental Control~~ Environmental Services may utilize qualified personnel of the county or municipality in whose jurisdiction the factory operates to assist with the monitoring of water quality and other environmental standards the department is required to enforce. The assistance may be provided at the request of the department and upon the consent of the county or municipality concerned.”

D. Section 48-1-85(D) of the 1976 Code is amended to read:

“(D) Houseboat holding tanks may be emptied only by a pump-out system permitted by the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

E. Section 48-1-95(A)(4) of the 1976 Code is amended to read:

“(4) ‘Department’ means the Department of ~~Health and Environmental Control~~ Environmental Services.”

F. Section 48-1-100(B) and (C) of the 1976 Code is amended to read:

“(B) The Department of ~~Health and Environmental Control~~ Environmental Services is the agency of state government having jurisdiction over the quality of the air and waters of the State of South Carolina. It shall develop and enforce standards as may be necessary governing emissions or discharges into the air, streams, lakes, or coastal waters of the State, including waste water discharges.

(C) The Department of ~~Health and Environmental Control~~ Environmental Services is the agency of state government having jurisdiction over those matters involving real or potential threats to the health of the people of South Carolina, including the handling and disposal of garbage and refuse; septic tanks; and individual or ~~privately-owned~~ privately owned systems for the disposal of offal and human or animal wastes.”

G. Section 48-1-130 of the 1976 Code is amended to read:

“Section 48-1-130. A person discharging sewage, industrial waste, or other waste or air contaminant into the environment of the State, in such manner or quantity as to cause pollution, without regard to the time that the discharge began or whether or not the continued discharge has been by virtue of a permit issued by the department, shall discontinue the discharge upon receipt of an order of the department. An order is subject to review pursuant to Section ~~44-1-60~~ 49-3-40 and the Administrative Procedures Act. This section does not abrogate any of the department’s emergency powers.”

H. Section 48-1-280 of the 1976 Code is amended to read:

“Section 48-1-280. Nothing herein contained shall be construed to postpone, stay or abrogate the enforcement of the provisions of the public health laws of this State and ~~rules and~~ regulations promulgated hereunder in respect to discharges causing actual or potential hazards to public health nor to prevent the Department of ~~Health and Environmental Control~~ Environmental Services from exercising its right to prevent or abate nuisances.”

SECTION 35. A. Section 48-2-20(2) of the 1976 Code is amended to read:

“(2) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

B. Section 48-2-70 of the 1976 Code is amended to read:

“Section 48-2-70. Under each program for which a permit processing fee is established pursuant to this article, the promulgating authority also shall establish by regulation a schedule for timely action by the Department of ~~Health and~~

~~Environmental Control~~ Environmental Services on permit applications under that program. These schedules shall contain criteria for determining in a timely manner when an application is complete and the maximum length of time necessary and appropriate for a thorough and prompt review of each category of permit applications and shall take into account the nature and complexity of permit application review required by the act under which the permit is sought. If the department fails to grant or deny the permit within the time frame established by regulation, the department shall refund the permit processing fee to the permit applicant.”

C. Section 48-2-320(1), (2), and (3) of the 1976 Code is amended to read:

“(1) ~~‘Commissioner’~~ ‘Director’ means the ~~Commissioner~~ director of the Department of ~~Health and Environmental Control~~ Environmental Services.

(2) ~~‘Department’~~ means the Department of ~~Health and Environmental Control~~ Environmental Services.

(3) ~~‘Environmental emergency’~~ means a situation, to be determined by the ~~commissioner~~ director, that constitutes an immediate threat to the environment or public health, or both, and providing immediate, but temporary relief to the situation may require the expenditure of funds to effect a solution, provide temporary relief, or retain the services of appropriate technical personnel or contractors.”

D. Section 48-2-330(A) of the 1976 Code is amended to read:

“(A) There is created within the Department of ~~Health and Environmental Control~~ Environmental Services a restricted account to be known as the Environmental Emergency Fund.”

E. Section 48-2-340(A) of the 1976 Code is amended to read:

“(A) The department, through the ~~commissioner~~ director or the ~~commissioner’s~~ director’s designee, shall certify that funding for a specific emergency was necessary to protect the environment or public health, or both. Annually, the department shall prepare an independent accounting of all revenue in the fund. The report must be submitted to the ~~chairman of the Board of the Department of Health and Environmental Control~~ Governor and must be made available to the public upon request.”

SECTION 36. A. Section 48-3-10(6) of the 1976 Code is amended to read:

“(6) ~~‘Department’~~ shall mean the Department of ~~Health and Environmental Control~~ Environmental Services of South Carolina.”

B. Section 48-3-140(A)(2) of the 1976 Code is amended to read:

“(2) a statement setting forth the action taken by the Department of ~~Health and Environmental Control~~ Environmental Services in connection with the pollution control facilities;”

SECTION 37. Section 48-4-10 of the 1976 Code is amended to read:

“Section 48-4-10. (A) The South Carolina Department of Natural Resources ~~is created to~~ shall administer and enforce the laws of this State relating to wildlife, marine resources, and natural resources and other laws specifically assigned to it. The department must be comprised of a Natural Resources Enforcement Division, a Wildlife and Freshwater Fisheries Division, a Marine Resources Division, ~~a Water Resources Division,~~ and a Land Resources and Conservation Districts Division. Each division of the department must have the functions and powers provided by law.

(B) ~~All functions, powers, and duties provided by law to the South Carolina Wildlife and Marine Resources Department, the Geological Survey Division of the Budget and Control Board, to include the State Geologist, and the South Carolina Migratory Waterfowl Committee are transferred to the Department of Natural Resources. All nonregulatory functions, powers, and duties provided by law to the South Carolina Water Resources Commission and the State Land Resources Conservation Commission are transferred to the Department of Natural Resources. All rules, regulations, standards, orders, or other actions of these entities remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.~~

~~(C)~~ All divisions are directly accountable to and subject to the Department of Natural Resources.

~~(D) The Wildlife and Marine Resources Commission, the Land Resources Conservation Commission, and the Water Resources Commission are abolished."~~

SECTION 38. Section 48-5-20(6) of the 1976 Code is amended to read:

"(6) 'Department' means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services."

SECTION 39. Section 48-14-20(1) and (6) of the 1976 Code is amended to read:

"(1) 'Department' means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.

(6) 'Designated Watershed' means a watershed designated by a local government and approved by the Department of ~~Health and Environmental Control~~ Environmental Services and identified as having an existing or potential stormwater, sediment control, or nonpoint source pollution problem."

SECTION 40.A. Section 48-18-20(8) and (11) of the 1976 Code is amended to read:

"(8) 'Department' means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.

~~(11) 'Board' means the board of the department."~~

B. Section 48-18-50(1) of the 1976 Code is amended to read:

"(1) A State Advisory Council on Erosion and Sediment Reduction (State Advisory Council), which may include, but not be limited to, a representative of each of the following, must be appointed by the Governor upon the advice of the following agencies and organizations:

- South Carolina Association of Counties
- South Carolina Municipal Association
- South Carolina Association of Conservation Districts
- South Carolina Home Builders Association
- Associated General Contractors, Inc.
- South Carolina Association of Realtors
- South Carolina Chapter, American Society of Landscape Architects
- South Carolina Chapter, American Society of Civil Engineers
- Council of Governments Executive Director's Committee
- South Carolina Farm Bureau
- South Carolina State Grange
- Office of the Governor
- USDA-Soil Conservation Service
- Clemson University
- South Carolina Department of ~~Health and Environmental Control~~ Environmental Services
- South Carolina Forestry Commission
- South Carolina Forestry Association
- South Carolina Chapter
- American Institute of Architects"

SECTION 41.A. Section 48-20-30 of the 1976 Code is amended to read:

"Section 48-20-30. The South Carolina Department of ~~Health and Environmental Control~~ Environmental Services is responsible for administering the provisions and requirements of this chapter. This includes the process and issuance of mining permits, review and approval of reclamation plans, collection of reclamation performance bonds, conduct of environmental appraisals, technical assistance to mine operators and the public, implementation of research and demonstration projects, and inspections of all mining operations and reclamation as set forth in this chapter. Proper

execution of these responsibilities may necessitate that the department seek comment from other relevant state agencies regarding matters within their respective areas of statutory responsibility or primary interests. The department has ultimate authority, subject to the appeal provisions of this chapter, over all mining, as defined in this chapter, and the provisions of this chapter regulating and controlling such activity.”

B. Section 48-20-40(3) of the 1976 Code is amended to read:

“(3) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services. Whenever in this chapter the department is assigned duties, they may be performed by the director or by subordinates as he designates.”

C. Section 48-20-70(3) of the 1976 Code is amended to read:

“(3) the operation will violate standards of air quality, surface water quality, or groundwater quality which have been promulgated by the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

SECTION 42. Section 48-21-20(b) and (c) of the 1976 Code is amended to read:

“(b) The council shall be composed of eleven members. One member shall be the State Geologist and one member shall be the Secretary of Commerce or his designee. Three members, appointed by the Governor, shall be representatives of mining industries; three members, appointed by the Governor, shall be representatives of nongovernmental conservation interests; two members, appointed by the Governor, shall be representatives of the Department of ~~Health and Environmental Control~~ Environmental Services who shall be knowledgeable in the principles of water and air resources management; and one member, appointed by the Governor, shall be his official representative to the Interstate Mining Compact Commission. Any public official appointed to the council shall serve ex officio. The term of office for the Secretary of Commerce or his designee and the Governor’s official representative to the Interstate Mining Compact Commission shall be coterminous with that of the Governor. Of the remaining eight members appointed by the Governor, six shall be appointed for terms of six years, two shall be appointed for terms of two years and beginning July 1, 1976, the term of office for all new appointments and reappointments to these eight positions shall be for four years. The term of each member of the council shall expire on June thirtieth of the year in which his term expires. Any vacancy occurring on the council by death, resignation, or otherwise shall be filled for the unexpired term of the person creating the vacancy by the Governor.

(c) In accordance with Article V (i) of the compact, the commission shall file copies of its bylaws and any amendments thereto with the Director of the Department of ~~Health and Environmental Control~~ Environmental Services.”

SECTION 43. Section 48-34-40(B)(3) of the 1976 Code is amended to read:

“(3) are considered in the public interest and do not constitute a public or private nuisance when conducted pursuant to the South Carolina Smoke Management Guidelines, Chapters 1 and 35, Title 48, and Chapter 2, Title 50; prescribed fires that are purposefully set in accordance with these chapters and the South Carolina Smoke Management Guidelines are exempt from the open fire prohibition pursuant to R. 61-62.2 and are acceptable to the Department of ~~Health and Environmental Control~~ Environmental Services if the fire is for:

- (a) burning forest lands for specific management practices;
- (b) agricultural control of diseases, weeds, and pests and for other specific agricultural purposes;
- (c) open burning of trees, brush, grass, and other vegetable matter for game management purposes;”

SECTION 44.A. Section 48-39-10(C), (V), and (W) of the 1976 Code is amended to read:

“(C) ‘Division’ means the Coastal Division of the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.

(V) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.

(W) ‘Board’ means the board of the department Reserved.”

B. Section 48-39-35 of the 1976 Code is amended to read:

“Section 48-39-35. The Coastal Division of the Department of Health and Environmental Control is created July 1, 1994. The division is transferred to the Department of Environmental Services the effective date of this act.”

C.1. The undesignated, introductory paragraph of Section 48-39-50 of the 1976 Code is amended to read:

“The South Carolina Department of ~~Health and Environmental Control~~ Environmental Services shall have the following powers and duties:”

2. Section 48-39-50(S) of the 1976 Code is amended to read:

“(S) To monitor, in coordination with the South Carolina Department of Natural Resources, the waters of the State for oil spills. If such department observes an oil spill in such waters, it shall immediately report ~~such~~ the spill to the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services, the United States Coast Guard, and the Environmental Protection Agency. This in no way negates the responsibility of the spiller to report a spill.”

D. Section 48-39-270(3) of the 1976 Code is amended to read:

“(3) ‘Department’ means the Department of ~~Health and Environmental Control~~ Environmental Services.”

E. Section 48-39-280(F) of the 1976 Code, as last amended by Act 173 of 2018, is further amended to read:

“(F)(1) ~~A landowner claiming ownership of property adversely affected by the establishment of a baseline or setback line, upon submittal of substantiating evidence, must be granted a review of the baseline or setback line. Alternatively, the municipality or county in which the property is situated, acting on behalf of the landowner with his written authorization, or an organization acting on behalf of the landowner with his written authorization, upon submittal of substantiating evidence, must be granted a review of the baseline and setback line. A review is initiated by filing a request for a review conference with the department board via certified mail within one year of the establishment of the baseline or setback line and must include a one hundred dollar review fee per property.~~

(2) ~~The initial decision to establish a baseline or setback line must be a department staff decision.~~

(3) ~~No later than sixty calendar days after the receipt of a request for review, the board must:~~

(a) ~~decline to schedule a review conference in writing; or~~

(b) ~~conduct a review conference in accordance with the provisions of item (4).~~

(4) ~~A review conference may be conducted by the board, its designee, or a committee of three members of the board appointed by the chair. The board shall set the place, date, and time for the conference; give twenty calendar days’ written notice of the conference; and advise the landowner or the county, municipality, or organization acting on behalf of the landowner that evidence may be presented at the conference. The review conference must be held as follows:~~

(a) ~~Review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the landowner or the county, municipality, or organization acting on behalf of the landowner. During the course of the review conference, the staff must explain the staff decision and the materials relied upon to support its decision. The landowner or the county, municipality, or organization acting on behalf of the landowner shall state the reasons for contesting the staff decision and may provide evidence to support amending the staff decision. The staff may rebut information and arguments presented by the landowner or the county, municipality, or organization acting on behalf of the landowner, and the landowner or the county, municipality, or organization acting on behalf of the landowner may rebut information and arguments presented by the staff. Any review conference officer may request additional information and may question the landowner or the county, municipality, or organization acting on behalf of the landowner and the staff.~~

(b) ~~After the review conference, the board, its designee, or a committee of three members of the board appointed by the chair shall issue, based upon the evidence presented, a written decision to the landowner or the county, municipality, or organization acting on behalf of the landowner via certified mail no later than thirty calendar days after the date of the review conference. The written decision must explain the basis for the decision and inform the landowner or the county, municipality, or organization acting on behalf of the landowner of the right to request a contested case hearing before the Administrative Law Court.~~

~~(5) The landowner or the county, municipality, or organization acting on behalf of the landowner may file a request with the Administrative Law Court, in accordance with Chapter 23, Title 1, for a contested case hearing within thirty calendar days after:~~

~~(a) written notice is received by the landowner or the county, municipality, or organization acting on behalf of the landowner that the board declines to hold a review conference;~~

~~(b) the sixty-calendar-day deadline to hold the review conference has lapsed and no conference has been held; or~~

~~(c) the final agency decision resulting from the review conference is received by the landowner or the county, municipality, or organization acting on behalf of the landowner. A landowner, or the county, municipality, or organization acting on the landowner's behalf, who claims ownership of property adversely affected by the establishment of a baseline or setback line, upon submittal of substantiating evidence, may file a request with the Administrative Law Court, in accordance with Chapter 23, Title 1, for a contested case hearing within thirty days after written notice is received by the landowner of the baseline or setback line decision.~~

F. Section 48-39-320(C) of the 1976 Code is amended to read:

~~“(C) Notwithstanding any other provision of law contained in this chapter, the board, or the Office of Ocean and Coastal Resource Management, may allow the use in a pilot project of any technology, methodology, or structure, whether or not referenced in this chapter, if it is reasonably anticipated that the use will be successful in addressing an erosional issue in a beach or dune area. If success is demonstrated, the board, or the Office of Ocean and Coastal Resource Management, may allow the continued use of the technology, methodology, or structure used in the pilot project location and additional locations.”~~

SECTION 45.A. Section 48-40-20(2) of the 1976 Code is amended to read:

~~“(2) ‘Office’ means the Office of Ocean and Coastal Resource Management of the Department of Health and Environment Control Environmental Services.”~~

B. Section 48-40-40(B) of the 1976 Code is amended to read:

~~“(B) The trust fund must be administered by the Office of Ocean and Coastal Resource Management of the Department of Health and Environmental Control Environmental Services pursuant to this chapter and its regulations governing application, review, ranking, and approval procedures for grants.”~~

SECTION 46. A. Section 48-43-10(B), (W), and (X) of the 1976 Code is amended to read:

~~“(B) ‘Department’ means the South Carolina Department of Health and Environmental Control Environmental Services.~~

~~(W) ‘Sanitary landfill’ means a solid waste disposal facility regulated by the Department of Health and Environmental Control Environmental Services.~~

~~(X) ‘Board’ means board of the department.”~~

B. Section 48-43-30(B)(5) and (B)(6)(ii) of the 1976 Code is amended to read:

~~“(5) To promulgate, after hearing and notice as hereinafter provided, such rules and regulations, and issue such orders reasonably necessary to prevent waste and oil discharges from drilling and production platforms, pipelines, gathering systems, processing facilities, storage facilities, refineries, port facilities, tankers, and other facilities and vessels that may be a source of oil spills and to protect correlative rights, to govern the practice and procedure before the board department, and to fulfill its duties and the purposes of this chapter.~~

~~(ii) furnish proof of insurance with the State of South Carolina as beneficiary. Before the issuance of drilling permits for methane gas recovery from sanitary landfills, the department must certify that the proposed activity is consistent with the Department of Health and Environmental Control Environmental Services regulations governing the operation, monitoring, and maintenance of the landfills and applicable permit conditions.”~~

C. Section 48-43-40(D) of the 1976 Code is amended to read:

“(D) All rules, regulations and orders made by the Department of ~~Health and Environmental Control~~ Environmental Services shall be in writing, shall be entered in full and indexed in books to be kept by the department for that purpose, and shall be public records open for inspection at all times during office hours. In addition, all rules and regulations shall be filed with the Secretary of State. A copy of any rule, regulation or order, certified by any member of the department or the department, under its seal, shall be received in evidence in all courts of this State with the same effect as the original.”

D. Section 48-43-50 of the 1976 Code is amended to read:

“Section 48-43-50. (A) The ~~board~~ department or an Administrative Law Judge shall have the power to conduct hearings, to summon witnesses, to administer oaths and to require the production of records, books and documents for examination at any hearing or investigation.

(B) Upon failure or refusal on the part of any person to comply with a subpoena issued by the ~~board~~ department pursuant to this section, or upon the refusal of any witness to testify as to any matter regarding which he may be interrogated and which is pertinent to the hearing or investigation, any circuit court in the State, upon the application of the ~~board~~ department, may issue an order to compel such person to comply with such subpoena, and to attend before the ~~board~~ department and produce such records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.”

E. Section 48-43-60 of the 1976 Code is amended to read:

“Section 48-43-60. Any person, who is aggrieved and has a direct interest in the subject matter of any final order issued by the ~~board~~ department, may appeal such order to the circuit court.”

F. Section 48-43-100 of the 1976 Code is amended to read:

“Section 48-43-100. All rules and regulations adopted by the Department of ~~Health and Environmental Control~~ Environmental Services, as provided for in this chapter, must be approved by the General Assembly before they shall be effective; provided, however, no regulation approved by the General Assembly shall conflict, at the time of approval, with any requirement or be in excess of any statute, rule or regulation of the Federal Government or any department or agency thereof.”

G. Section 48-43-390(A) of the 1976 Code is amended to read:

“(A) The South Carolina State Fiscal Accountability Authority, upon review by the Joint Bond Review Committee as necessary, hereinafter referred to as the authority, is hereby designated as the State Agency with the authority, responsibility and power to lease all State lands to persons for the purpose of drilling for and producing oil and gas. The Department of ~~Health and Environmental Control~~ Environmental Services is hereby designated as the exclusive agent for the authority in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to oil and gas leases as may be included herein as responsibilities of the authority.”

H. Section 48-43-510 (1) and (13) of the 1976 Code is amended to read:

“(1) ‘Department’ means the Department of ~~Health and Environmental Control~~ Environmental Services.

(13) ‘Board’ means the Department of ~~Health and Environmental Control~~ Reserved.”

I. Section 48-43-520(4) of the 1976 Code before the numbered items is amended to read:

“(4) The General Assembly intends by the enactment of this article to exercise the police power of the State by conferring upon the Department of ~~Health and Environmental Control~~ Environmental Services power to:”

J. Section 48-43-570(a) of the 1976 Code is amended to read:

“(a) The Department of Transportation, the Department of Natural Resources, and any other agency of this State, shall cooperate with and lend assistance to the Department of ~~Health and Environmental Control~~ Environmental Services by assigning, upon request, personnel, equipment and material to be utilized in any project or activity related to the containment, collection, dispersal or removal of oil discharged upon the land or into the waters of this State.”

SECTION 47.A. Section 48-46-30(7), (10), (19), and (22) of the 1976 Code is amended to read:

“(7) ‘Extended care maintenance fund’ means the ‘escrow fund for perpetual care’ that is used for custodial, surveillance, and maintenance costs during the period of institutional control and any post-closure observation period specified by the Department of ~~Health and Environmental Control~~ Environmental Services and for activities associated with closure of the site as provided for in Section 13-7-30(4).

(10) ‘Maintenance’ means active maintenance activities as specified by the Department of ~~Health and Environmental Control~~ Environmental Services, including pumping and treatment of groundwater and the repair and replacement of disposal unit covers.

(19) ‘Regional waste’ means waste generated within a member state of the Atlantic Compact. Consistent with the regulatory position of the Department of ~~Health and Environmental Control~~ Environmental Services, Bureau of Radiological Health, dated May 1, 1986, some waste byproducts shipped for disposal that are derived from wastes generated within the Atlantic Compact region, such as residues from recycling, processing, compacting, incineration, collection, and brokering facilities located outside the Atlantic Compact region may also be considered regional waste.

(22) ‘Waste’ means Class A, B, or C low-level radioactive waste, as defined in Title I of Public Law 99-240 and Department of ~~Health and Environmental Control~~ Environmental Services Regulation 61-63, 7.2.22, that is eligible for acceptance for disposal at a regional disposal facility.”

B. Section 48-46-40(B)(7)(a) and (9) of the 1976 Code is amended to read:

“(a) If the office, upon the advice of the compact commission or the site operator, concludes based on information provided to the office, that the volume of waste to be disposed during a forthcoming period of time does not appear sufficient to generate receipts that will be adequate to reimburse the site operator for its costs of operating the facility and its operating margin, then the office shall direct the site operator to propose to the compact commission plans including, but not necessarily limited to, a proposal for discontinuing acceptance of waste until such time as there is sufficient waste to cover the site operator’s operating costs and operating margin. Any proposal to suspend operations must detail plans of the site operator to minimize its costs during the suspension of operations. Any such proposal to suspend operations must be approved by the Department of ~~Health and Environmental Control~~ Environmental Services with respect to safety and environmental protection.

(9) In all proceedings held pursuant to this section, the office shall participate as a party representing the interests of the State of South Carolina, and the compact commission may participate as a party representing the interests of the compact states. The Executive Director of the Office of Regulatory Staff and the Attorney General of the State of South Carolina shall be parties to any such proceeding. Representatives from the Department of ~~Health and Environmental Control~~ Environmental Services shall participate in proceedings where necessary to determine or define the activities that a site operator must conduct in order to comply with the regulations and license conditions imposed by the department. Other parties may participate in the PSC’s proceedings upon satisfaction of standing requirements and compliance with the PSC’s procedures. Any site operator submitting records and information to the PSC may request that the PSC treat such records and information as confidential and not subject to disclosure in accordance with the PSC’s procedures.”

C. Section 48-46-50(A) of the 1976 Code is amended to read:

“(A) The Governor shall appoint two commissioners to the Atlantic Compact Commission and may appoint up to two alternate commissioners. These alternate commissioners may participate in meetings of the compact commission in lieu of

and upon the request of a South Carolina commissioner. Technical representatives from the Department of ~~Health and Environmental Control~~ Environmental Services, the office, the PSC, and other state agencies may participate in relevant portions of meetings of the compact commission upon the request of a commissioner, alternate commissioner, or staff of the compact commission, or as called for in the compact commission bylaws.”

D. Section 48-46-80 of the 1976 Code is amended to read:

“Section 48-46-80. Pursuant to Section 48-2-10 et seq., the Department of ~~Health and Environmental Control~~ Environmental Services may adjust the radioactive materials license fee for Low-Level Radioactive Waste Shallow Land Disposal in Regulation 61-30 in an amount that will offset changes to its annual operating budget caused by projected increases or decreases in the number of permittees expected to pay fees for Radioactive Waste Transport Permits under the same regulation for shipment of low-level radioactive waste for disposal within the State.”

E. Section 48-46-90 of the 1976 Code is amended to read:

“Section 48-46-90. (A) In accordance with Section 13-7-30, the office, or its designee, is responsible for extended custody and maintenance of the Barnwell site following closure and license transfer from the facility operator. The Department of ~~Health and Environmental Control~~ Environmental Services is responsible for continued site monitoring.

(B) Nothing in this chapter may be construed to alter or diminish the existing statutory authority of the Department of ~~Health and Environmental Control~~ Environmental Services to regulate activities involving radioactive materials and radioactive wastes.”

SECTION 48.A. Section 48-52-810(10)(b)(v) of the 1976 Code is amended to read:

“(v) a building project funded by the Department of ~~Health and Environmental Control~~ Environmental Services in which the primary purpose of the building project is for the storage of archived documents.”

B. Section 48-52-865(A)(1)(c) of the 1976 Code is amended to read:

“(c) the Director of the Department of ~~Health and Environmental Control~~ Environmental Services, or his designee;”

SECTION 49. Section 48-55-10(A)(1) and (7) of the 1976 Code is amended to read:

“(1) South Carolina Department of ~~Health and Environmental Control~~ Environmental Services by its ~~commissioner~~ director;

(7) Coastal Division of the Department of ~~Health and Environmental Control~~ Environmental Services by the ~~department’s director~~ division’s chief;”

SECTION 50. Section 48-56-20(3) of the 1976 Code is amended to read:

“(3) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

SECTION 51. Section 48-57-20(1) of the 1976 Code is amended to read:

“(1) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

SECTION 52.A. Section 48-60-20(10) of the 1976 Code is amended to read:

“(10) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

B. Section 48-60-55(E)(2) of the 1976 Code is amended to read:

“(2) If the department disapproves a plan submitted pursuant to item (1), and the representative organization chooses not to submit a revised plan or the department disapproves the revised plan, the representative organization shall have the right to appeal pursuant to Section ~~44-1-60~~ 49-3-40.”

SECTION 53.A. Section 49-1-15(A) and (B) of the 1976 Code is amended to read:

“Section 49-1-15. (A) Except as otherwise provided herein, no person may erect, construct, or build any structure or works in order to dam or impound the waters of a navigable stream or any waters which are tributary to a navigable stream for the purpose of generating hydroelectricity without securing a permit from the Department of ~~Health and Environmental Control~~ Environmental Services. Any projects that are subject to Chapter 33, of Title 58 of the Utility Facility Siting and Environmental Protection Act are exempted from this section. Further exempted are projects where the project developer without exercising condemnation authority is the existing owner of the property upon which the project is to be constructed and projects which do not exceed sixty acres including in both cases inundated land.

(B) The Department of ~~Health and Environmental Control~~ Environmental Services may issue a permit for the projects in this subsection after a thorough review of the proposed project and a finding that it meets any regulations of the ~~board department~~ and the following standards:

- (1) The proposed project does not halt or prevent navigation by watercraft of the type ordinarily frequenting the reach of the watercourse in question.
- (2) The projects proposed for shoaled areas of the watercourse provide a means of portage or bypass of the project structure.
- (3) The need for the proposed project far outweighs the historical and current uses of the stream in question.
- (4) The impact of the proposed project will not threaten or endanger plant or animal life.
- (5) The recreational and aesthetic benefits or detriments caused by the proposed project do not alter the watercourse or damage riparian lands.”

B. Section 49-1-16 of the 1976 Code is amended to read:

“Section 49-1-16. The Department of ~~Health and Environmental Control~~ Environmental Services may charge a fee to an applicant for a permit for any construction, alteration, dredging, filling, or other activity in navigable waters of the State. If the project is commercial or industrial and is in support of operations that charge for the production, distribution, or sale of goods or services, a fee of five hundred dollars must be charged, except if the aerial crossing of navigable waters by conductors or other wires supported solely by structures outside the navigable waters the fee shall be one hundred dollars. If the work is noncommercial in nature and provides personal benefits that have no connection with a commercial enterprise the fee must be fifty dollars. The department shall remit the fees to the State Treasurer and shall be issued a credit for any portion of the fees necessary to offset its costs in processing, investigating and taking final action on each permit application. Any remaining portion shall be credited to the general fund of the State.”

C. Section 49-1-18 of the 1976 Code is amended to read:

“Section 49-1-18. The General Assembly, pursuant to Section 7, Article I of the South Carolina Constitution, 1895, suspends the authority of the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services, hereinafter the department, for all decisions subsequent to 2007 related to all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels, in particular the approval by the department of the application of the United States Army Corps of Engineers for a Construction in Navigable Waters Permit for the dredging of the South Carolina portion of the Savannah River, because the authority of the Savannah River Maritime Commission, hereinafter the Maritime Commission, superseded the responsibilities of the department for such approval, as established by Act 56 of 2007, and the approval by the department could present imminent and irreversible public health and environmental concerns for the South Carolina portion of the Savannah River. Until the effective date of this act, the Department of ~~Health and Environmental Control~~ Environmental Services retains authority for all matters pertaining to the Savannah River unrelated to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels. Beginning the effective date of this act, the authority for all matters pertaining to the Savannah River unrelated to the navigability, depth, dredging, wastewater and

sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels are transferred to and devolved upon the Department of Environmental Services.”

SECTION 54.A. Section 49-4-20(5) of the 1976 Code is amended to read:

“(5) ‘Department’ means the Department of ~~Health and Environmental Control~~ Environmental Services.”

B. Section 49-4-170(B)(1) of the 1976 Code is amended to read:

“(1) The department may, in consultation with the Department of Natural Resources, negotiate agreements, accords, or compacts on behalf of and in the name of the State with other states or the United States, or both, with any agency, department, or commission of either, or both, relating to transfers of water that impact waters of this State, or are connected to or flowing into waters of this State. Any agreements, accords, or compacts made by the ~~board~~ department pursuant to this section must be approved by concurrent resolution of the General Assembly prior to being implemented. The department also may represent the State in connection with water withdrawals, diversions, or transfers occurring in other states which may affect this State. The provisions in this section do not apply to the Office of Attorney General or any pending or future criminal or civil actions, lawsuits, or causes in which the State is a party or interested.”

SECTION 55.A. Section 49-5-30(3)and (5) of the 1976 Code is amended to read:

“(3) ‘Board’ means the Board of the Department of ~~Health and Environmental Control~~. Reserved.

(5) ‘Department’ means the Department of ~~Health and Environmental Control~~ Environmental Services.”

B. Section 49-5-60 of the 1976 Code is amended to read:

“Section 49-5-60. (A) In the State where excessive groundwater withdrawal presents potential adverse effects to the natural resources or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source, including salt water intrusion, the ~~board~~ department, after notice and public hearing, in accordance with the Administrative Procedures Act, shall designate a capacity use area. The department, local government authorities, other government agencies, or groundwater withdrawers may initiate the capacity use area designation process. The notice and public hearing must be conducted such that local government authorities, groundwater withdrawers, or the general public may provide comments concerning the capacity use area designation process. A capacity use area must be designated by the ~~board~~ department based on scientific studies and evaluation of groundwater resources and may or may not conform to political boundaries.

(B) After notice and public hearing, the department shall coordinate with the affected governing bodies and groundwater withdrawers to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan. ~~The plan must be approved by the board before the department may issue groundwater withdrawal permits for the area.~~

(C) Once the ~~board approves the~~ groundwater management plan for a designated capacity use area is developed in accordance with subsection (A), each groundwater withdrawer shall make application for a groundwater withdrawal permit. The department shall issue groundwater withdrawal permits in accordance with the approved plan.

(D) A person or entity affected may appeal a decision of the ~~board~~ department on a capacity use area designation within thirty days after the filing of the decision to the court of common pleas of any county which is included in whole or in part within the disputed capacity use area. The department shall certify to the court the record in the hearing. The court shall review the record and the regularity and the justification for the decision. The court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the agency;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;

- (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the record; or
- (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

SECTION 56. Section 49-6-30 of the 1976 Code is amended to read:

“Section 49-6-30. There is hereby established the South Carolina Aquatic Plant Management Council, hereinafter referred to as the council, which shall be composed of ten members as follows:

~~1.~~(1)The council shall include one representative from each of the following agencies, to be appointed by the chief executive officer of each agency:

- (a) Water Resources Division of the Department of ~~Natural Resources~~ Environmental Services;
- (b) ~~South Carolina Department of Health and Environmental Control~~;
- (e) Wildlife and Freshwater Fish Division of the Department of Natural Resources;
- ~~(d)~~(c) South Carolina Department of Agriculture;
- ~~(e)~~(d) Coastal Division of the Department of ~~Health and Environmental Control~~ Environmental Services;
- ~~(f)~~(e) South Carolina Public Service Authority;
- ~~(g)~~(f) Land Resources and Conservation Districts Division of the Department of Natural Resources;
- ~~(h)~~(g) South Carolina Department of Parks, Recreation and Tourism;
- ~~(i)~~(h) Clemson University, Department of Fertilizer and Pesticide Control.

~~2.~~(2)The council shall include one representative from the Governor’s Office, to be appointed by the Governor.

~~3.~~(3)The representative of the Water Resources Division of the Department of ~~Natural Resources~~ Environmental Services shall serve as chairman of the council and shall be a voting member of the council.

The council shall provide interagency coordination and serve as the principal advisory body to the department on all aspects of aquatic plant management and research. The council shall establish management policies, approve all management plans, and advise the department on research priorities.”

SECTION 57.A. Section 49-11-120(3) of the 1976 Code is amended to read:

“(3) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services or its staff or agents.”

B. Section 49-11-170(E) of the 1976 Code is amended to read:

“(E) The owner of a dam or reservoir determined through a preliminary inspection not to be maintained in good repair or operating condition or to be unsafe and a danger to life or property may request a hearing before ~~the board~~ of the department within thirty days after notice of the findings are delivered. The owner may submit written or present oral evidence which must be considered by ~~the board~~ of the department in the issuance of the order.”

C. Section 49-11-260(D) of the 1976 Code is amended to read:

“(D) A person against whom a final order or decision has been made, except for emergencies specified in Section 49-11-190, may appeal to the ~~board~~ circuit court under the Administrative Procedures Act. The burden of proof is on the party attacking an order or a decision of the department to show that the order is unlawful or unreasonable.”

SECTION 58.A. Section 1-30-10(A) of the 1976 Code, as last amended by Act 26 of 2019, is further amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

- ~~1.~~(1) Department of Administration
- ~~2.~~(2) Department of Agriculture
- ~~3.~~(3) Department of ~~Alcohol and Other Drug Abuse Services~~ Public and Behavioral Health
- ~~4.~~(4) Department of Commerce
- ~~5.~~(5) Department of Corrections
- ~~6.~~(6) Department of Disabilities and Special Needs
- ~~7.~~(7) Department of Education
- ~~8.~~(8) Department of ~~Health and Environmental Control~~ Environmental Services

- 9.(9) Department of Health and Human Services
- 10.(10) Department of Insurance
- 11.(11) Department of Juvenile Justice
- 12.(12) Department of Labor, Licensing and Regulation
- 13. ~~Department of Mental Health~~
- 14(13) Department of Motor Vehicles
- 15.(14) Department of Natural Resources
- 16.(15) Department of Parks, Recreation and Tourism
- 17.(16) Department of Probation, Parole and Pardon Services
- 18.(17) Department of Public Safety
- 19.(18) Department of Revenue
- 20.(19) Department of Social Services
- 21.(20) Department of Transportation
- 22.(21) Department of Employment and Workforce
- 23.(22) Department on Aging
- 24.(23) Department of Veterans' Affairs."

B. Section 1-30-75 of the 1976 Code is amended to read:

Section 1-30-75. ~~Effective on July 1, 1994,~~ The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the agency, except for those subdivisions specifically included under another department, ~~are transferred to and incorporated in,~~ and must be administered as part of the Department of Natural Resources. The department must be divided ~~initially~~ into divisions for Land Resources and Conservation Districts, ~~Water Resources,~~ Marine Resources, Wildlife and Freshwater Fisheries, and State Natural Resources Enforcement. ~~The South Carolina Wildlife and Marine Resources Commission, as constituted on June 30, 1993, and after that time, under the provisions of Section 50-3-10 et seq. is the governing authority for the department:~~

- (1) Geological Survey of the Research and Statistical Services Division of the Budget and Control Board, to include the State Geologist, formerly provided for at Section 1-11-10, et seq.;
- (2) State Land Resources Conservation Commission, less the regulatory division, formerly provided for at Section 48-9-10, et seq.;
- (3) South Carolina Migratory Waterfowl Commission, formerly provided for at Section 50-11-20, et seq.;
- (4) ~~Water Resources Commission, less the regulatory division, formerly provided for at Section 49-3-10, et seq.;~~
- (5)(4) South Carolina Wildlife and Marine Resources Commission, formerly provided for at Section 50-3-10, et seq."

C. Chapter 30, Title 1 of the 1976 Code is amended by adding:

"Section 1-30-140.(A) There is hereby created, within the executive branch of the state government, the Department of Public and Behavioral Health, headed by a director appointed by the Governor pursuant to Section 44-1-20. The divisions, offices, and programs of the Department of Health and Environmental Control performing functions, related to regulation and protection of the health prior to the effective date of this act, the Department of Mental Health and the Department of Alcohol and Other Drug Abuse Services, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with these divisions, offices, programs, and other related entities, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Behavioral and Public Health.

(B) There is hereby created, within the executive branch of the state government, the Department of Environmental Services, headed by a director appointed by the Governor pursuant to Section 49-3-20. The divisions, offices, and programs of the Department of Health and Environmental Control performing functions related to regulation and protection of the environment prior to the effective date of this act, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property and all contractual rights and obligations associated with these divisions, offices, programs, and other related entities, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Environmental Services."

SECTION 59. Sections 1-30-20, 1-30-45, 1-30-70, 44-11-30, and 44-11-40 of the 1976 Code are repealed.

SECTION 60. The Code Commissioner is directed to change all references to the "Department of Health and Environmental Control" in Chapters 3, 4, 5, 6, 7, 8, 9, 20, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 49, 52, 53, 59, 61, 63, 69, 70, 71, 74, 75, 78, 80, 81, 87, 89, 99, 113, 115, 117, 122, 125, 128, and 130 of Title 44 of the 1976 Code to the "Department of Public and Behavioral Health".

SECTION 61. (A) When the provisions of this act transfer particular state agencies, departments, boards, commissions, committees or entities, or sections, divisions, or portions thereof (transferring departments), to another state agency, department, division or entity or make them a part of another department or division (receiving departments), the employees, authorized appropriations, bonded indebtedness if applicable, and real and personal property of the transferring department also are transferred to and become part of the receiving department or division unless otherwise specifically provided. All classified or unclassified personnel of the affected agency, department, board, commission, committee, entity, section, division, or position employed by these transferring departments on the effective date of this act, either by contract or by employment at will, shall become employees of the receiving department or division, with the same compensation, classification, and grade level, as applicable. The Department of Administration shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The board's action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(B) When an agency, department, entity or official is transferred to or consolidated with another agency, department, division, entity or official, regulations promulgated by that transferred agency, department, entity or official under the authority of former provisions of law pertaining to it are continued and are considered to be promulgated under the authority of present provisions of law pertaining to it.

(C) References to the names of agencies, departments, entities, or public officials changed by this act, to their duties or functions herein devolved upon other agencies, departments, entities, or officials, or to provisions of law consolidated with or transferred to other parts of the 1976 Code are considered to be and must be construed to mean appropriate references.

(D) Employees or personnel of agencies, departments, entities, or public officials, or sections, divisions, or portions thereof, transferred to or made a part of another agency, department, division, or official pursuant to the terms of this act shall continue to occupy the same office locations and facilities which they now occupy unless or until otherwise changed by appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency, department, entity, or official formerly employing these personnel until otherwise provided by the General Assembly. The records and files of the agencies that formerly employed these personnel shall continue to remain the property of these transferring agencies, except that these personnel shall have complete access to these records and files in the performance of their duties as new employees of the receiving agency.

(E) Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must continue to be used and expended for those purposes provided prior to the effective date of this act. If a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit, or expense of personnel transferred, these funds must continue to be used for these purposes.

(F) When the functions of former agencies have been devolved on more than one department or departmental division, the general support services of the former agency must be transferred to the restructured departments or departmental divisions as provided by the General Assembly in the annual general appropriations act.

(G) The Code Commissioner of the Legislative Council shall cause the changes to the 1976 Code as contained in this act to be printed in replacement volumes or in cumulative supplements as he considers practical and economical.

SECTION 62. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 63. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 64. This act takes effect July 1, 2021. /

Renumber sections to conform.

Amend title to conform.