

Agency Name: South Carolina Perpetual Care Cemetery Board  
 Statutory Authority: 40-8-10 et seq.  
 Document Number: 4168  
 Proposed in State Register Volume and Issue: 34/12  
 120 Day Review Expiration Date for Automatic Approval: 05/08/2013  
 House Committee: Labor, Commerce and Industry Committee  
 Senate Committee: Labor, Commerce and Industry Committee  
 Status: Pending  
 Subject: Perpetual Care Cemetery Board

History: 4168

<u>By</u>	<u>Date</u>	<u>Action Description</u>	<u>Jt. Res. No.</u>	<u>Expiration Date</u>
-	12/24/2010	Proposed Reg Published in SR		
-	02/01/2011	Received by Lt. Gov & Speaker		06/01/2011
H	02/02/2011	Referred to Committee		
S	02/02/2011	Referred to Committee		
S	05/18/2011	Committee Requested Withdrawal 120 Day Period Tolled		
-	01/10/2012	Withdrawn and Resubmitted		01/30/2012
S	01/24/2012	Committee Requested Withdrawal 120 Day Period Tolled		
-	06/08/2012	Withdrawn due to end of two-year session		
-	01/08/2013	Resubmitted with no substantive changes - Received by Lt. Gov & Speaker		05/08/2013

Document No. 4168  
**PERPETUAL CARE CEMETERY BOARD**  
CHAPTER 21  
Statutory Authority: 1976 Code Sections 40-8-10 et seq.

21-1 through 21-27. Perpetual Care Cemetery Board

**Synopsis:**

The Perpetual Care Cemetery Board is amending current regulations 21-1 through 21-60 and deleting Regulation 21-61 through 21-64 to clarify and conform to the Perpetual Care Cemetery Practice Act. These regulations also are updated to reflect statutory amendments made to the South Carolina Perpetual Care Cemetery Act by 2002 Act 322.

The Notice of Drafting was published in the *State Register* on November 26, 2010.

**Instructions:**

Replace 21-1 through 21-27 as printed below.  
Delete 21-60 through 21-64 as indicated below.

~~Indicates Matter Stricken~~  
Indicates New Matter

**Text:**

SUBARTICLE 1

GENERAL INFORMATION

~~21-1. Board Location.~~ General Purpose.

~~The South Carolina Cemetery Board is located in Columbia, South Carolina, in the Office of the Secretary of State. The mailing address for the Cemetery Board is Post Office Box 11350, Columbia, South Carolina 29211. The general purpose of the Perpetual Care Cemetery Board is to protect the public and to regulate and supervise the activities of cemeteries licensed under the laws of South Carolina.~~

~~21-2. General Purpose.~~ Definitions.

~~The principal purpose of the Cemetery Board is to Regulate and Supervise the activities of Cemeteries licensed under the Laws of South Carolina.~~

(1) "Complaint log" is a required record, pursuant to Section 40-8-100(B), of written complaints received regarding cemeteries. This log must be kept in writing by the cemetery.

(2) "Examined", as used in Section 40-8-100(A), and subsequently with "examination", means a special report to be determined by the board. The Cemetery Board will, as often as it deems necessary, make a physical examination of each cemetery to insure compliance with applicable laws.

(3) "Financial institution" means a bank, trust company, or savings and loan association authorized by law to do business in this State.

(4) "Licensed public accountant" means public accountant (PA) or certified public accountant (CPA) licensed in one of the United States or its territories and this accountant must practice independently from

the cemetery company the accountant examines. Said accountant, pursuant to Section 40-8-100(A), shall examine a cemetery company's care and maintenance trust fund and merchandise fund every three (3) years even if there was not a previous account.

(5) "Licensee" means a person or entity granted an authorization or license to operate pursuant to this chapter and refers to a person holding a license granted pursuant to this chapter.

(6) "Nature preserve", for the purposes of this chapter, is a conservation burial ground for the interment of human remains.

(7) "Opening/closing" means the process of opening and closing of a grave site, which must be done in a timely manner.

(8) "Principal place of business" means the licensed cemetery's office or primary in-state location, as per Section 40-8-100(A).

(9) "Services" or "cemetery services" means any act or activity by a cemetery in relation to arranging, supervising, interring or disposing of the remains or commemorating the memory of deceased human beings.

(10) "Non-Profit Cemetery" means a cemetery owned by a non-profit group which has established 501(C)(3) status with the Internal Revenue Service (IRS).

#### 21-3. Areas of Responsibility- Disclosures.

The Cemetery Board has the power and duty to adopt Rules and Regulations to be followed in the enforcement of Chapter 55 of Title 39 of the 1976 Code, as amended. Pursuant to Section 40-8-100(G), a certified copy of the disclosures regarding fees to be placed in trust by the cemetery company must be sent to the board administrator.

#### 21-4. Functions of the Board- Outer Burial Container.

The principal function of the Cemetery Board is to conduct examinations of all licensed Cemeteries. In addition to its examination function, the Cemetery Board authorizes the establishment of cemeteries and the licensing of those cemeteries. Pursuant to Section 40-8-35, the cemetery must disclose to the purchaser of an outer burial container the identity of the manufacturer and the model of said container.

#### 21-5. Examinations- General Manager Requirements.

The Cemetery Board will, as often as it deems necessary, make a physical examination of each cemetery, to insure there is compliance with Chapter 55 of Title 39 of the 1976 Code, as amended. Pursuant to Section 40-8-90(A) (1)(d), the general manager of a cemetery must be a South Carolina resident and must have had at least two (2) years experience in perpetual care cemetery business.

#### 21-6. Correct Documentation Required for Cemetery Application.

Pursuant to Section 40-8-90(A) (2), the ninety (90) day requirement for the grant or refusal of authority to organize a cemetery begins after all correct documentation, along with a completed application for organization of a cemetery, is received.

#### 21-7. Records Retention.

(A) Pursuant to Section 40-8-100(A), all records maintained by cemeteries must be maintained on location and be available for inspection at all times. The Board may permit cemeteries with multiple locations to maintain records at its primary in-state location.

(B) Pursuant to Section 40-8-110(H), if an individual acting on the board's behalf must be sent to inspect/audit the records of the cemetery company, the cemetery is responsible for any and all costs incurred.

#### 21-8. Death of Cemetery Owner.

In case of the death of a cemetery owner, if the cemetery is inherited, a probate judge must appoint a qualified manager for the cemetery. Once probate is finalized, the manager must apply for a new license within sixty (60) days. (Section 40-8-90(B))

21-9. Policies and Procedures; Vendors.

(A) Pursuant to Section 40-8-100(H), policies and procedures must be approved by the board before being put into effect.

(B) Pursuant to Section 40-8-100(D), a policy or procedure may not be promulgated which unreasonably charges outside vendors more than the cemetery would charge for such services.

SUBARTICLE 2

STRUCTURE

21-10. Cemetery Board Members.

~~The Cemetery Board is established within the Office of the Secretary of State of South Carolina by Code Section 39-55-45. The Cemetery Board consists of six members, appointed by the Governor pursuant to Code Section 39-55-55 and the Secretary of State who is a member ex officio and shall serve as Chairman of the Board.~~

21-110. Meetings.

The Cemetery Board shall meet at least semiannually, and more often upon the call of the Chairman or upon written request of at least four members of the board.

SUBARTICLE 32

CARE AND MAINTENANCE TRUST FUNDS

21-11. Care and Maintenance Trust Funds.

(A) Pursuant to Section 40-8-110(C), each time a space is sold, the cemetery must deposit the amount which the cemetery charges for perpetual care into the Care and Maintenance Trust Fund. The trustee must furnish to the board, within ninety (90) days of the end of the calendar year, an annual summary of the beginning balance, all deposits, all withdrawals, and the ending balance of the trust account.

(B) Pursuant to Section 40-8-110(C), the cemetery must also trust the greater of 0.08 cents per square inch or the actual amount charged for the long term care of a marker. Dates of payment and deposit must be put in writing and recorded.

(C) Pursuant to Section 40-8-110(E), capital gains are not net income, but growth in the corpus. Net income is the current year's earnings of interest and dividends. The taxes of the trust are to be paid by the cemetery.

21-2012. Report of Deposits.

The Cemetery Board requires a report of deposits, earnings, and withdrawals to the Care and Maintenance Trust Fund to be completed and mailed to ~~its office in Columbia~~ the Cemetery Board annually on forms provided by the Cemetery Board.

21-2113. Location of Fund.

No person will be allowed to withdraw or transfer all ~~of~~ or any portion of the corpus of the Care and Maintenance Trust Funds of any Cemetery to any depository outside the State of South Carolina. Also, ~~the~~ board will not approve the creation of a new Care and Maintenance Trust Fund as called for under Code Section ~~39-55-135~~ 40-8-110 unless the same is deposited with a trust institution in the State of South Carolina.

~~21-22~~14. Transfer of Funds.

Any Cemetery which desires to transfer its Care and Maintenance Trust Funds must make written request to the Cemetery Board and provide the Cemetery Board with a copy of the new proposed Care and Maintenance Trust Fund Agreement. The Cemetery Board will then notify the Cemetery, in writing, after study of the request and proposal, either authority for the transfer or the denial of the request.

~~21-23~~15. Commingling of Deposits.

The Trustees of Care and Maintenance Trust Funds may commingle the deposits in all such trusts for purposes of the management and investment of the funds.

## SUBARTICLE 43

### MERCHANDISE ~~TRUST~~-FUNDS

~~21-30~~16. Reports of Deposits.

The Cemetery Board requires a report of deposits, earnings, and withdrawals to the Merchandise Trust Fund to be completed and mailed to ~~its office in Columbia~~ the Cemetery Board annually on forms provided by the Cemetery Board.

Pursuant to Section 40-8-110(F)(1), whether or not a merchandise account exists, the cemetery must annually report the existence of merchandise account information, including balances, if any.

~~21-31~~17. Location of Fund.

The Cemetery Board will not approve the creation of a Merchandise Trust Fund unless the same is deposited with a Trust financial institution in the State of South Carolina.

~~21-32~~18. Deposits to ~~Maintenance Trust~~ Merchandise Fund.

No person shall offer to enter into, or enter into a contract, for the sale of a memorial, mausoleum crypt, or other cemetery merchandise that is to be used in connection with the interment of a deceased human being, wherein the memorial or other cemetery merchandise is not delivered or the mausoleum crypt is not constructed until the death, or at some future time, of the person for whose interment such personal property is to be furnished, except as provided below:

(a) Any person entering into any such contract as the seller shall deposit into a merchandise ~~trust~~ fund, established for that purpose with a Trust financial institution in South Carolina, ~~as Trustee~~, one hundred (100) percent of the actual cost, at time of deposit, of the personal property sold for future need.

(b) The deposit required to be made into such Merchandise Trust Fund shall be made within sixty (60) days after the seller has received final payment of the purchase price provided for under such contract.

~~(c) The term "Mausoleum Crypt" as used in Code Section 39-55-185(B) shall mean a private, family Mausoleum as opposed to a public mausoleum which is governed by Code Section 39-55-225 of the South Carolina Cemetery Act of 1984.~~

~~21-33~~19. Withdrawals from Merchandise Trust Fund.

The funds held ~~in trust~~ shall remain intact, together with all interest accrued thereon, except as provided herein, until the ~~M~~memorial or other ~~C~~cemetery merchandise has been delivered, ~~or in the case of a private, family mausoleum, the same has been constructed, and until delivery or completion of construction has been certified to the Trustee.~~

(a) The costs for administering the ~~M~~merchandise ~~T~~rust ~~F~~fund may be paid from, and only from, the income earned by the ~~T~~rust ~~f~~und or by the cemetery company.

(b) For the purpose of Code Section ~~39-55-185-40-8-110~~, only (1) the installation of said merchandise, meaning the placement of the marker, in the ~~C~~cemetery, or (2) the aboveground warehousing of said merchandise on the ~~C~~cemetery ~~P~~roperty, or (3) the deposit of one hundred (100) percent of the cost of said merchandise in the ~~Merchandise Trust-Fund~~, or (4) another type of aboveground only warehousing of said merchandise that has prior approval of the Cemetery Board, will constitute the delivery of said merchandise.

## SUBARTICLE 54

### PRIVATE AND COMMUNITY MAUSOLEUMS AND BELOW GROUND CRYPTS TRUST FUNDS

#### 21-4020. Reports.

The Cemetery Board requires that a cemetery pre-file with the board, before it begins, a pre-construction mausoleum sales program, and that a report of deposits to the Pre-Construction Trust Mausoleum Fund to be completed and mailed to its office in Columbia the Cemetery Board annually on forms provided by the Cemetery Board.

#### 21-4121. Deposits to Fund.

(a) Any person who enters into a contract for the sale of a space in a private family mausoleum or community Mausoleum or bank of Underground-belowground Crypts prior to the completed construction thereof shall establish a ~~T~~rust ~~F~~fund entitled "Pre-Construction ~~T~~rust ~~F~~und" with a financial Trust-Institution in South Carolina. The ~~P~~re-~~C~~onstruction ~~T~~rust ~~F~~und shall be administered and operated in the same manner as the ~~M~~merchandise ~~T~~rust ~~F~~und provided for in Code Section ~~39-55-185-40-8-110(F)~~, and shall be exclusive of the ~~M~~merchandise ~~T~~rust ~~F~~und or other ~~T~~rust ~~F~~unds that may be required by law.

(b) The seller's cost of a space in a private or a community Mausoleum or in a Bank of Underground-belowground Crypts shall be determined by the contract and plans between the ~~C~~cemetery ~~C~~ompany and the ~~B~~uilding ~~C~~ontractor.

(c) When any memorial, mausoleum crypt, or other merchandise is sold in advance of need and not installed until a later date, one hundred (100) percent of actual cost to the seller at time of deposit must be placed in a ~~trust-financial~~ institution within sixty (60) days after completion of the contract, with interest to accrue, and may not be withdrawn without the consent of the purchaser until the time of delivery or construction.

#### 21-4222. Withdrawals from Pre-Construction Trust-Fund.

The seller shall be entitled to withdraw all funds from the ~~P~~re-~~C~~onstruction ~~T~~rust ~~F~~und after the ~~Trustee-Cemetery Board~~ is satisfied that construction has been completed; provided, however, during construction of the ~~M~~ausoleum or ~~B~~ank of Underground-belowground Crypts, the ~~Trustee-Cemetery Board~~ shall authorize a specific percentage of the funds to be withdrawn when the ~~C~~cemetery ~~C~~ompany certifies that at least an equivalent percentage of construction has been completed.

## SUBARTICLE 65

## LICENSING

### 21-5023. Application and Filing Fee.

Any legal entity wishing to establish and operate a Cemetery Company, as defined in Code Section ~~39-55-35(3)-40-8-30(6)~~ must first obtain a license from the Cemetery Board. The legal entity shall file written application with the Cemetery Board on the ~~Board's Application for Certificate of Authority~~. This form provides a space for the name of the Corporation and the Cemetery, the names of the Directors and officers of the Corporation, the mailing address of the Corporation and the address of the Cemetery. A filing fee of Four Hundred Dollars (\$400.00) must accompany the Application. Application for Certificate of Authority forms are available from the Office of the Cemetery Board. All applicable fees must be paid with the application.

### 21-5124. Cemetery Company License.

Upon proper application for a Cemetery Company License, and where it appears after investigation that the criteria set forth in Code Section ~~39-55-95(e)(1) through (5)~~ required by applicable laws have been met, the Cemetery Board shall issue said License to the applicant, provided that the required license fee has been paid.

### 21-5225. Change of Control.

Any entity wishing to purchase or acquire control of an existing Cemetery Company shall first make written application to the Cemetery Board on the ~~B~~Board's Application for Change of Control. This form provides space for the name and address of the present and the proposed new owner, along with the name of the Corporation and the name of the Cemetery. This form is available from the ~~O~~Office of the Cemetery Board. ~~This form must be accompanied by a One Hundred Dollar (\$100.00) filing fee.~~ The ~~B~~Board also requires the following, including but not limited to:

- (1) an examination be made to establish compliance ~~to the Trust Fund~~ with all funding requirements;
- (2) a certificate signed by the purchaser assuming liabilities of the existing Cemetery Company;
- (3) the financial structure of the existing Cemetery Company;
- (4) a financial statement of the ~~future owner purchaser~~.

### 21-5326. Cemetery Rules and Regulations.

Each Cemetery ~~that was licensed as of June 28, 1984,~~ shall submit to the Cemetery Board a copy of its ~~R~~Rules and ~~R~~Regulations for approval ~~on or before January 1, 1985~~. After the Cemetery Board has approved the ~~R~~Rules and ~~R~~Regulations for a licensed Cemetery, the Cemetery, must before modifying, changing, or amending said ~~R~~Rules and ~~R~~Regulations, submit proposed amendments or changes to the Cemetery Board for approval.

### 21-27. Nature Preserve Exemption Requirements.

Prior approval of the Board is required for all licensing exemptions granted for a nature preserve cemetery. The proposed nature preserve cemetery must be duly licensed and approved by all other applicable licensing authorities. Perpetual care as it is defined in the South Carolina Perpetual Care Cemetery Act may not be offered. Burial or scattering of cremated remains is permissible.

- (a) Vaults are not permitted.
- (b) Decedents are not to have been embalmed, or embalmed only with approved nontoxic chemicals.
- (c) Burial containers are to be limited to those made from materials that are nontoxic/nonhazardous and natural/plant derived, with shrouds allowed.
- (d) An Integrated Pest Management (IPM) program must be implemented, so as to prohibit the use of pesticide other than in instances where it is required to eradicate invasive species.
- (e) Land criteria: A Nature Preserve Cemetery must:

(i) Be contiguous to, or in a position to augment the conservation goals of an ecologically significant park, wildlife corridor, critical habitat area, or permanently protected open space; or (with appropriate management practices) be large enough on its own to be considered a landscape-level conservation effort;

(ii) Operate only in areas of the property where burial would not degrade the land and the surrounding landscape;

(iii) Be owned by, or operated in conjunction with a government agency or a nonprofit conservation organization that is recognized by the Internal Revenue Service as a public charity and in business for at least five years (the “conservation partner”). The conservation partner must have legally binding responsibility for perpetual stewardship of the land, both in the operational facility and in the conservation area(s), and must set all conservation policies; and

(iv) Utilize a deed restriction (if operator is a nonprofit conservation organization that has been established for at least five years) or a conservation easement that incorporates these standards. A conservation easement must also conform to all provisions of the Internal Revenue Code Section 170(h) and provide for public access to and through the site, particularly to connect it to adjoining protected open space, to the extent public use of the property is compatible with ecological goals.

(f) Start-up criteria. A Nature Preserve Cemetery must:

(i) Conduct a biological evaluation including baseline information on existing geology, hydrology, soils, and topography, and on both existing and potential vegetation and wildlife. This evaluation must be used by the facility designers and operators to ensure that existing site resources are not degraded, and that the potential for re-introducing native species is given appropriate consideration in design and planning;

(ii) Conduct an evaluation to determine potential erosion issues and measures necessary to prevent them;

(iii) Develop a plan for limiting visitation to sensitive areas as well as policies for families who choose “back country” or “off trail” burial;

(iv) Compile a plant list for use as memorial features for every area or “zone” of property where burial will take place, and a list of plants appropriate for use in restoration and/or preservation of native vegetation.

(v) Develop a plan for limiting the types, sizes, visibility of memorial markers/features to preserve or restore naturalistic vistas.

(g) Operations and management criteria. A Nature Preserve Cemetery must:

(i) Develop a plan for using native plants and for protecting or rescuing locally rare plants;

(ii) Establish an endowment fund to ensure the long term maintenance of the land and its trail system by setting aside at least five (5) percent of all burial plot sales;

(iii) Utilize excavation and burial techniques/technology that minimizes impact on surrounding land, and protects native plant diversity.

(iv) Develop a policy for dealing with unauthorized grave decoration and landscaping.

(v) Develop a “systems and operations” manual to be given to all staff members, contractors and volunteers that communicates the above criteria and the goals and methods of meeting them.

## SUBARTICLE 7

### RULE-MAKING AND DECLARATORY RULINGS

#### 21-60. Petitions.

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Cemetery Board shall address a petition to the Cemetery Board at its Office in Columbia.

(b) The petition shall contain the following information:

- (1) draft of the proposed rule or a summary of its contents;
  - (2) reason for the proposal;
  - (3) effect on existing rules or orders;
  - (4) data supporting the proposal;
  - (5) names of those most likely to be affected by the proposed rule, with addresses if reasonably known;
  - (6) name(s) and address(es) of petitioner(s);
  - (7) a description as to how the petitioner(s) is (are) directly or substantially affected by the proposed rule.
- (c) The Cemetery Board will determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. They will consider all the contents of the submitted petition, plus any additional information they deem relevant.
- (d) Within sixty (60) days of receipt of the petition, the Cemetery Board will render a final decision. If the decision is to deny the petition, the Board will notify the petitioner in writing, stating the reason therefor. If the decision is to grant the petition, the Board, within sixty (60) days of submission, will initiate a rule-making proceeding by issuing a rule-making notice as provided in the rules.

21-61. Notice.

- (a) Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the Cemetery Board will give Twenty (20) days notice to all interested parties of a public hearing on the proposed rule.
- (b) Any person or agency desiring to be placed on the mailing list for Cemetery Board rule-making notices may file a request, in writing, furnishing names and mailing address to the Cemetery Board at its Office in Columbia.
- (c) In addition to notices sent to persons requesting them, notice of the rule-making proceedings will usually be sent to the South Carolina Cemetery Board and to all state-licensed Cemeteries.

21-62. Hearings.

- (a) Unless otherwise stated in the particular rule-making notice, hearings before the South Carolina Cemetery Board will be held at the offices of Secretary of State of South Carolina, Columbia, South Carolina.
- (b) Any person desiring to present oral data, views, or arguments on the proposed rule must, at least ten (10) days before the hearing, file a written notice with Cemetery Board at its Office in Columbia. Notice of this presentation may be waived or a failure to give notice may be excused, by the Board, for good cause. Any person permitted to make an oral presentation is encouraged to submit a written copy of the presentation to the Cemetery Board prior to or at the hearing.
- (c) A request to make an oral presentation must contain a brief summary of the individual's views with respect thereto, and a statement of the length of time the individual wants to speak. Presentations may not exceed fifteen (15) minutes unless, upon request, either before or at the hearing, the Cemetery Board grants an extension of time, for good cause.
- (d) Upon receipt of a request to make an oral presentation, the Cemetery Board will acknowledge receipt of the request, and inform the requesting person of the imposition of any limitation deemed necessary to the end that a full and effective public hearing on the proposed rules may be held.
- (e) Any person may file a written submission containing data, comments, or arguments, after publication of a rule-making notice, up to and including, the day of the hearing. Written submissions, except when otherwise stated in the particular rule-making notice must be sent to the Cemetery Board at its Office in Columbia. Such submission must clearly state the rule(s) or proposed rule(s) to which the comments are addressed.
- (f) Upon receipt of such written comments, prompt acknowledgment will be made including a statement that the comments therein will be considered fully by the Cemetery Board.
- (g) The Chairman of the Board, or his designate, shall have complete control of the hearing proceedings, including: extension of any time requirements, recognition of speakers, time allotments for presentation, direction of the flow of the discussion, and the time management of the hearing. The Chairman, or his

~~designate, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.~~

~~(h) Any person desiring a statement of the principal reason(s) for and against the adoption of a rule by the Cemetery Board and the factors that led to the overruling of the consideration urged for or against its adoption, must submit a request addressed to the Cemetery Board at its Office in Columbia.~~

~~(1) For the purpose of this rule an "interested person" shall be any person whose right, duties, or privileges might be affected by the rule in question, or any group or organization representing any person(s) whose rights, duties, or privileges might be affected by the rule.~~

~~(2) Requests must be in writing and submitted either prior to the adoption of the rule or within thirty (30) days thereafter.~~

~~(i) A record of all rule-making proceedings will be maintained in the Cemetery Board Office for as long as the regulation is in effect, and for two years thereafter, following filing of the regulation with the Legislative Council. This record will contain: the original petition, if the hearing is in response to a petition; the notice; all written memoranda and information submitted; a record or summary of oral presentation, if any; and the statement explaining the Cemetery Board ruling, if made.~~

#### ~~21-63. Emergency Rules.~~

~~The South Carolina Cemetery Board shall have the power to issue emergency rules when required by reason of imminent peril to the public health, safety, and welfare. They shall issue such notice by written, telegraphic, or telephonic, or other means, and allow such comments oral or written, as time permits. An emergency rule shall continue for the duration of the emergency or for such time as shall be specified, but in no event shall the period be in excess of One Hundred Twenty (120) days.~~

#### ~~21-64. Declaratory Rulings.~~

~~(a) Any person substantially affected by a statute administered, or rule promulgated, by the Cemetery Board may request a Declaratory Ruling as to:~~

~~(1) whether, and if so, how, the statute or rule applies to a given factual situation, or,~~

~~(2) whether a particular agency rule is valid.~~

~~(b) The Cemetery Board will have the sole power to make such Declaratory Rulings. All requests for Declaratory Rulings shall be written and mailed to the Office of the Cemetery Board in Columbia.~~

~~(c) All requests for a Declaratory Ruling must include the following information:~~

~~(1) name and address of petitioner;~~

~~(2) statute or rule to which petition relates;~~

~~(3) concise statement of the manner in which the petitioner is aggrieved by the statute or rule, or its potential application to him;~~

~~(4) a statement of whether an oral hearing is desired, and if so, the reasons for such an oral hearing.~~

~~(d) Whenever the Cemetery Board believes for good cause that the issuance of a Declaratory Ruling is undesirable, it may refuse to do so. When good cause for refusing to issue a Declaratory Ruling is deemed to exist, the Cemetery Board will notify the petitioner of its decision in writing, stating reasons for the denial of a Declaratory Ruling.~~

~~(e) Where a Declaratory Ruling is deemed appropriate, the Cemetery Board will issue the ruling within sixty (60) days of receipt of the petition.~~

~~(f) A Declaratory Ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be appropriate in a particular case.~~

#### **Fiscal Impact Statement:**

There will be no additional cost incurred by the State or any political subdivision.

#### **Statement of Rationale:**

The regulations are amended to conform to 2002 Act 322.