Agency Name: Department of Health and Environmental Control

Statutory Authority: 44-87-10 et seq., 48‑1‑10 et seq., 48‑6‑10 et seq., and 2023 Act No. 60, effective July 1, 2024

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Status: Pending

Subject: Air Pollution Control Regulations and Standards; South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP); and Standards of Performance for Asbestos Projects

History: 5325

By Date Action Description Jt. Res. No. Expiration Date

- 10/25/2024 Proposed Reg Published in SR

- 01/14/2025 Received President of the Senate & Speaker 01/18/2026

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**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 44‑87‑10 et seq., 48‑1‑10 et seq., 48‑6‑10 et seq., and 2023 Act No. 60, effective July 1, 2024

61‑62. Air Pollution Control Regulations and Standards.

61‑86.1. Standards of Performance for Asbestos Projects.

**Synopsis:**

On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to that legislation, DHEC and the DHEC Board were abolished, and the South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48‑6‑20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations.

SCDES is amending R.61‑62.1. Definitions and General Requirements; R.61‑62.3. Air Pollution Episodes; R.61‑62.4. Hazardous Air Pollution Conditions; R.61‑62.5. Standard 4, Emissions from Process Industries; R.61‑62.96. Nitrogen Oxides (NOX) Budget Program; and the SIP, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non‑substantive, grammatical changes.

SCDES is also amending R.61‑62.60. South Carolina Designated Facility Plan and New Source Performance Standards; R.61‑62.63. National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61‑62.70. Title V Operating Permit Program, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non‑substantive, grammatical changes.

SCDES is also amending R.61‑86.1. Standards of Performance For Asbestos Projects, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non‑substantive, grammatical changes.

These amendments will require legislative review pursuant to S.C. Code Ann. Section 1‑23‑120(A) (Supp. 2023).

SCDES had a Notice of Drafting published in the August 23, 2024, South Carolina State Register.

**Instructions:**

Amend the regulations as shown below. All other items remain unchanged.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

**61‑62. Air Pollution Control Regulations and Standards.**

Statutory Authority: 1976 Code Sections 48‑1‑10 et seq., 48‑6‑10 et seq., and 2023 Act No. 60, effective July 1, 2024

**Regulation 61‑62.1. Definitions and General Requirements.**

Regulation 61‑62.1. Section I Definitions.

Regulation 61‑62.1(I)(11), shall be revised as follows:

 (11) ~~Board – Means Board of Health and Environmental Control.~~ Reserved.

Regulation 61‑62.1(I)(20), shall be revised as follows:

 (20) ~~Commissioner – Means the Commissioner (also known as the Director) of the Department of Health and Environmental Control.~~ Reserved.

Regulation 61‑62.1(I)(25), shall be revised as follows:

 (25) Department – Means the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services.

Regulation 61‑62.1. Section II Permit Requirements.

Regulation 61‑62.1(II)(K)(5), shall be revised as follows:

 (5) Any request under this section will be subjected to public notice and opportunity for a public hearing. ~~Upon approval by the Board the~~ The recommendations of ~~this~~ the Department shall be sent to the Administrator, or his designated representative, for approval or disapproval.

**Regulation 61‑62.3. Air Pollution Episodes.**

Regulation 61‑62.3. Section I, Un‑numbered Initial Paragraph, shall be revised as follows:

 Conditions justifying the proclamation of any stage of an air pollution episode shall be deemed to exist whenever the ~~Commissioner~~ Department determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to substantial threat to the health of persons. The appropriate episode stage will be declared on a regional basis, as dictated by air quality monitoring. Adverse air quality need not be regionwide to trigger control actions; the appropriate episode stage will be declared for an entire Air Quality Control Region when any monitoring site within the region records ambient air quality in excess of that designated in the criteria. In making this determination, the ~~Commissioner~~ Department will be guided by the criteria listed below:

Regulation 61‑62.3. Section I, Paragraph 1, shall be revised as follows:

 1. FORECAST ‑ This level will normally be activated when an Air Stagnation Advisory (ASA) is issued for any part of South Carolina by the Columbia Forecast Office of the National Weather Service. If continuous air monitoring equipment indicates an upward trend in pollutant concentrations, the ~~Commissioner~~ Department may request that the National Weather Service issue an ASA, even though meteorological factors do not appear critical. In the absence of an ASA, the ~~Commissioner~~ Department may, at his discretion, declare this level when it is in the best interest of public health and welfare.

**Regulation 61‑62.4. Hazardous Air Pollution Conditions.**

Regulation 61‑62.4. Section E. CLEANUP, shall be revised as follows:

 If releases to the atmosphere of air contaminants result from spillage and cause such concentrations as to produce an imminently hazardous level, clean up activities shall begin as soon as possible and shall be completed to the satisfaction of the ~~Commissioner~~ Department.

**Regulation 61‑62.5. Standard 4, Emissions from Process Industries.**

Regulation 61‑62.5. Standard 4, Section VIII, Footnote to Table B, Title, shall be revised as follows:

 \*\* The ~~Board~~ Department will make additions to this table as required from time to time to preserve public health and property in South Carolina.

**Regulation 61‑62.60. South Carolina Designated Facility Plan and New Source Performance Standards.**

Regulation 61‑62.60. Subpart Cf, Section (C), shall be revised as follows:

 (C) 40 CFR 60.41f, Definitions, is adopted and incorporated by reference as if fully repeated herein, except as follows: the word “Administrator” as used in this subpart shall mean the Department of ~~Health and~~ Environmental ~~Control~~ Services, with the exception of the sections within this subpart that may not be delegated by the EPA.

Regulation 61‑62.60. Subpart DDDD, Section (F)(12), shall be revised as follows:

 (12) 40 CFR 60.2875, Definitions, except that the word “Administrator” shall mean the Department of ~~Health and~~ Environmental ~~Control~~ Services, with the exception of provisions within this subpart that may not be delegated by the EPA.

**Regulation 61‑62.63. National Emission Standards for Hazardous Air Pollutants (NESHAP) For Source Categories.**

Regulation 61‑62.63. Initial Paragraph (titled “Note”), shall be revised as follows:

Note: Section 112 of the Clean Air Act as amended in 1990 requires the United States Environmental Protection Agency (EPA) to issue emission standards for all major sources of the listed hazardous air pollutants (HAPs). These rules are generally known as “maximum achievable control technology” (MACT) standards. On June 26, 1995 [60 FR 32913], the EPA granted full approval to the State of South Carolina under Section 112(l)(5) and 40 CFR 63.91 of the State’s program for receiving delegation of Section 112 standards that are unchanged from federal rules as promulgated. These rules are incorporated by reference by the Department and the tables are periodically revised as MACT standards are amended or promulgated. The word “Administrator” as used in these MACT standards shall mean the Department of ~~Health and~~ Environmental ~~Control~~ Services with the exception of the sections within these subparts that may not be delegated by the EPA.

**Regulation 61‑62.70. Title V Operating Permit Program.**

Regulation 61‑62.70.2(h), shall be revised as follows:

(h) “Department” means the Department of ~~Health and~~ Environmental ~~Control~~ Services.

**Regulation 61‑62.96. Nitrogen Oxides (NOX) Budget Program.**

Regulation 61‑62.96.2(q), shall be revised as follows:

(q) Department means the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services.

**61‑86.1. Standards of Performance For Asbestos Projects.**

Statutory Authority: 1976 Code Sections ~~44-1-140; 48-1-30;~~ 44-87-10 et seq., 48‑1‑10 et seq., 48‑6‑10 et seq., and 2023 Act No. 60, effective July 1, 2024

**Regulation 61‑86.1. Section I. DEFINITIONS.**

Regulation 61‑86.1. Section I, Paragraph 36, shall be revised as follows:

36. “Department” ‑ The Asbestos Section of the South Carolina Department of ~~Health and~~ Environmental ~~Control’s Asbestos Section~~ Services.

**Regulation 61‑86.1. Section III. ASBESTOS LICENSE FEE SCHEDULE.**

Regulation 61‑86.1. Section III, Paragraph A.2., shall be revised as follows:

 2. Acceptable methods of payment shall be by check or money order made payable to ~~SCDHEC~~ SCDES, by credit card (VISA, MasterCard, or Discover), or cash.

**Regulation 61‑86.1. Section XVI. STANDARDS FOR DEMOLITIONS.**

Regulation 61‑86.1. Section XVI, Paragraph B.1.a, shall be revised as follows:

 a. Submit to the Department a written ~~DHEC~~Department demolition application at least ten working days in advance of the proposed demolition start date.

**Regulation 61‑86.1. Section XVI. STANDARDS FOR DEMOLITIONS.**

Regulation 61‑86.1. Section XVI, Paragraph B.1.c, shall be revised as follows:

 c. Acceptable methods of payment shall be by check or money order made payable to ~~SCDHEC~~ SCDES, credit card (VISA, MasterCard, or Discover), and cash.

**Regulation 61‑86.1. Section XXII. CONTESTED CASES.**

Regulation 61‑86.1. Section XXII, shall be revised as follows:

 A. A Department decision involving the issuance, denial, renewal, suspension, or revocation of a permit or license may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title ~~44~~48, Chapter ~~1~~6 and Title 1, Chapter 23.

 B. Any person to whom an order or civil penalty is issued may appeal it pursuant to applicable law, including S.C. Code Title ~~44~~48, Chapter ~~1~~6 and Title 1, Chapter 23.

**Fiscal Impact Statement:**

There is no anticipated increase in costs to the state or its political subdivisions resulting from these revisions. These amendments comply with and implement 2023 Act No. 60. These amendments will benefit the regulated community by clarifying and updating the preexisting DHEC regulations now implemented by SCDES and improving their ease of use.

**Statement of Rationale:**

On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to that legislation, DHEC and the DHEC Board were abolished, and the South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48‑6‑20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations. SCDES is amending these regulations to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non‑substantive, grammatical changes.