

Document No. \_\_\_\_\_  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-1-10 et seq., 44-87-10 et seq., and 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.

**Preamble:**

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 proposes 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 (NO<sub>x</sub>) 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 also proposes 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 also proposes 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.

**Section-by-Section Discussion of Proposed Amendments:**

<b>Section</b>	<b>Type of Change</b>	<b>Purpose</b>
<b>R.61-62</b>		
61-62.1(I)(11)	Revision	Updated to reflect the abolishment of the DHEC Board.
61-62.1(I)(20)	Revision	Updated to remove obsolete references due to the abolishment of DHEC and creation of SCDES.
61-62.1(I)(25)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-62.1(II)(K)(5)	Revision	Updated to reflect the abolishment of the DHEC Board.

61-62.3. Section I, Un-numbered initial paragraph	Revision	Updated to remove obsolete references due to the abolishment of DHEC and creation of SCDES.
61-62.3. Section I, Paragraph 1	Revision	Updated to remove obsolete references due to the abolishment of DHEC and creation of SCDES.
61-62.4. Section E.	Revision	Updated to remove obsolete references due to the abolishment of DHEC and creation of SCDES.
61-62. 5. Standard 4, Section VIII, Footnote to Table B, Title	Revision	Updated to reflect the abolishment of the DHEC Board.
61-62.60. Subpart Cf, Section (C)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-62.60. Subpart DDDD, Section (F)(12)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-62.63. Initial Paragraph (titled “Note”)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-62.70.2(h)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-62.96.2(q)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
<b>R.61-86.1</b>		
61-86.1. Section I, Paragraph 36	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-86.1. Section III, Paragraph A.2.	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-86.1. Section XVI, Paragraph B.1.a.	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-86.1. Section XVI, Paragraph B.1.c.	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-86.1. Section XXII.	Revision	Updated citation of S.C. Code, in two instances, to reflect the abolishment of DHEC and creation of SCDES.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit comment(s) on the proposed amendments to Mary Peyton Wall of the South Carolina Department of Environmental Services at 2600 Bull Street, Columbia, S.C. 29201; or via email at [marypeyton.wall@des.sc.gov](mailto:marypeyton.wall@des.sc.gov). To be considered, SCDES must receive the comment(s) no later than 5:00 p.m. on November 25, 2024, the close of the comment period.

Should a public hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, the South Carolina Administrative Law Court will conduct a public hearing on Monday, December 9, 2024, beginning at 10:00 a.m. at the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, S.C. 29201. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received by 5:00 p.m. on November 25, 2024, the hearing will be cancelled.

Should a hearing be requested pursuant to 40 CFR 51.102, as amended, such hearing will be conducted at SCDES Headquarters, 2600 Bull Street, Columbia, S.C. 29201, on Wednesday, December 4, 2024, at 10:00 a.m. in Room 2151 of the Sims Building. If a qualifying request pursuant to 40 CFR 51.102 is not received by 5:00 p.m. on November 25, 2024, the hearing will be cancelled. Should the public hearing be cancelled,

SCDES will post the notice of cancellation at least one week prior to the scheduled hearing at <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>. Interested persons may also contact Mary Peyton Wall via phone at (803) 898-4064 or email at [marypeyton.wall@des.sc.gov](mailto:marypeyton.wall@des.sc.gov) for more information or to find out if the hearing has been cancelled.

SCDES publishes a Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>.

### **Preliminary Fiscal Impact Statement**

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The proposed 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 Need and Reasonableness**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-62. Air Pollution Control Regulations and Standards, and R.61.86.1. Standards of Performance for Asbestos Projects.

Purpose: 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 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 proposes amending R.61-62 and R.61-86.1, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes.

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

Plan for Implementation: Upon taking legal effect, SCDES personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The SCDES Regulation Development Update (accessible at <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Freedom of Information Office within SCDES.

### **DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

On May 19, 2023, Governor McMaster signed the Act, restructuring DHEC. Pursuant to that legislation, DHEC and the DHEC Board were abolished, and 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 proposes these amendments to reflect the restructuring

of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes. These amendments are necessary and reasonable to implement the agency restructuring.

**DETERMINATION OF COSTS AND BENEFITS:**

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The proposed amendments are consistent with the Act, and these amendments will benefit the regulated community by clarifying and updating the regulations and improving their ease of use.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

**EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:**

Adoption of the proposed amendments to R.61-62 and R.61-86.1 will provide continued protection of the environment and public health.

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

The state’s regulations must be amended to reflect the restructuring of DHEC and the creation of SCDES. These regulations are beneficial to the public health and environment, and their clarity would be compromised if these amendments were not adopted.

**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 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 proposes these amendments to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

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

Statutory Authority: 1976 Code Section(s) 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 (NO<sub>x</sub>) 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 48-1-10 et seq., 44-87-10 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 ~~4448~~, Chapter ~~46~~ 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 ~~4448~~, Chapter ~~46~~ and Title 1, Chapter 23