

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**CHAPTER 121**

Statutory Authority: 1976 Code Sections 48-6-10 et seq., 48-43-10 et seq., and 2023 Act No. 60, effective July 1, 2024

**R.121-8.0 through 121-8.28. Oil and Gas Exploration, Drilling, and Production.**

**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 the above-referenced regulations 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>
R.121-8.23	Revision	Updated 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 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 the public hearing be cancelled, SCDES will post the notice of cancellation at <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>.

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.121-8.0 through 121-8.28. Oil and Gas Exploration, Drilling, and Production.

**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.121-8.0 through 121-8.28, 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 48-6-10 et seq., 48-43-10 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.121-8.0 through R.121-8.28 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

**Regulation 121-8.0 through 121-8.28. Oil and Gas Exploration, Drilling, and Production.**

Statutory Authority: 1976 Code Section(s) 48-6-10 et seq., 48-43-10 et seq., and 2023 Act No. 60, effective July 1, 2024

**Regulation 121-8.23. Water Wells.**

Regulation 121-8.23, shall be revised as follows:

Any water well used in connection with the drilling of an oil or gas well shall be constructed in such a manner that will ensure proper protection from contamination of the fresh water aquifers. Said well shall be grouted to a depth of at least 50 feet or until the first impermeable layer is encountered (where applicable). Upon completion of said well, a complete well construction report and a driller’s log, or lithologic log, shall be submitted to the Commission within thirty (30) days and before beginning drilling operations for the oil or gas well. After drilling and/of production operations have ceased, the water well shall be properly plugged or when the well to be plugged may safely be used for a fresh water well, or as an observation well to be maintained by the Commission, a written agreement for such use shall be secured from the landowners, or the Commission and filed with the agency. (NOTE: Any water well drilled in connection with an oil or gas well, which might be used as a drinking water source, may require

a permit from the South Carolina Department of Health and Environmental Control Services as a public supply well).