

ATTACHMENT A

STATE REGISTER NOTICE OF PROPOSED REGULATION FOR R. 61-62, AIR POLLUTION CONTROL REGULATIONS AND STANDARDS

August 13, 2020

Document No. _____

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards.

Preamble:

Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department of Health and Environmental Control (Department) must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department 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.61-62.68, Chemical Accident Prevention Provisions, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling and overall improvement of the text of R.61-62 as necessary.

South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

The Department had a Notice of Drafting published in the February 28, 2020, South Carolina State Register.

Section-by-Section Discussion of Proposed Amendments:

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Amended the titles of Subparts QQQQ and TTTT to strike the capitalized "For" and replace with lowercase "for", and amended the title of Subpart QQQQ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.60, Subpart B, "Adoption and Submittal of State Plans for Designated Facilities":
Subpart B is deleted in its entirety for clarity and compliance with federal law.

Regulation 61-62.60, Subpart Cf, "Emission Guidelines for Municipal Solid Waste Landfills":
The table is amended to incorporate federal revisions at 84 FR 44547, August 26, 2019, by reference.

Regulation 61-62.60, Subpart CCCC "Standards of Performance for Commercial and Industrial Solid Waste Incineration Units":
The table is amended to incorporate federal revisions at 84 FR 15846, April 16, 2019, by reference.

Regulation 61-62.60 Subpart UUUUa "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units":
Subpart UUUUa is added to comply with newly promulgated federal regulations at 84 FR 32520, July 8, 2019.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Amended titles of Subparts JJJJ, KKKKK, and CCCCCC to strike the capitalized "For" and replace with lowercase "for", and amended the title for Subpart JJJJ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.63, Subpart A, "General Provisions":
The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019; 84 FR 7682, March 4, 2019; and 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart HHHH, “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”:

The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019, by reference.

Regulation 61-62.63, Subpart NNNN, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart OOOO, “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart QQQQ, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”:

The table is amended to incorporate federal revisions at 84 FR 7682, March 4, 2019, by reference.

Regulation 61-62.63, Subpart RRRR, “National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart TTTT, “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”:

The table is amended to incorporate federal revisions at 84 FR 3308, February 12, 2019, by reference.

Regulation 61-62.63, Subpart KKKKK, “National Emission Standards for Hazardous Air Pollutants for Clay Ceramics”:

The table is amended to incorporate federal revisions at 84 FR 58601, November 1, 2019, by reference.

Regulation 61-62.63, Subpart QQQQQ, “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”:

The table is amended to incorporate federal revisions at 84 FR 2742, February 8, 2019, by reference.

Regulation 61-62.68, Chemical Accident Prevention Provisions

Amended codification and internal citations throughout to update alpha-numeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual, and to reflect repositioning of various provisions for improved organization and clarity.

Amended throughout to strike the abbreviations “Sec.” and “Secs.”, and replace them with the word “Sections” to ensure internal consistency.

Amended throughout to change capitalization of “section” to “Section”, “subpart” to “Subpart”, and “parts” to “Parts” for improved organization and clarity and to ensure internal consistency.

Amended tab formatting to ensure codification is consistent with the 2014 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.68, Section 68.1, Scope:

Section 68.1 is amended to strike the phrase “This part” and add the phrase “Regulation 61-62.68”, and to add the phrase “Clean Air” to the word “Act” for internal consistency and clarification.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68” for internal consistency, to revise codification and citations in alpha-numeric order, and to format the defined terms in bold font and strike quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to insert 68.3(c), (j), and (t) in alpha-numeric order to add definitions for “Administrator”, “CBI”, and “LEPC”, to ensure consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(a) is amended to strike the word “Release” and replace with lowercase word “release” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(mm) is recodified (o) to strike the definition for “USDOT” and replace with “DOT” in alpha-numeric order for consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(o) is recodified (q), and former paragraph 68.3(u) is recodified (z) and repositioned in alpha-numeric order to reflect codification changes.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(gg) is amended to add a hyphen between “on” and “site” to correct a typographical error.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(kk) is amended to add the word “Section” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(nn) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(oo) is amended to strike the sentence “The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part.” and reposition this sentence following the first sentence, for consistency with the federal regulation. The repositioned sentence is amended to replace the phrase “of this part” with the phrase “of Regulation 61-62.68” for clarity and consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(pp) is amended to add the word “Section”, and to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Definition for “Retail facility” is codified (mm) and repositioned in alpha-numeric order to reflect codification and formatting changes.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a) is amended to strike the word “An” and add “Except as provided in paragraphs (b) though (f) of this section, an” for consistency with the federal regulation, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(2) is amended to strike the word “or” after the semicolon for correct codification.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(3) is amended to strike the period and add a semicolon and the word “or” after the semicolon for correct codification.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(4) is added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through (f) are recodified 68.10(g) through (k) for consistency with the federal regulation, and the internal citations in paragraphs 68.10(h) and (i) are amended to reflect repositioning of the paragraphs for consistency.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through 68.10(f), and subparagraphs 68.10(f)(1) through 68.10(f)(4), are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(g)(2) is amended to strike the zero in the citation “Section 68.30” to correct a typographical error.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(k) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(a) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b) is amended to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(2) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(4) is amended to strike the words “Section” and “Sec.” and replace both with the phrase “40 CFR” for clarity and consistency, and to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c) is amended to recodify the internal reference for consistency, and to add subparagraph (c)(4) to comply with the federal regulation. Former subparagraphs 68.12(c)(4) and (c)(5) are recodified 68.12(c)(5) and (c)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c)(5) (former paragraph 68.12(c)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, and amended the internal citation to strike the number “95” and replace with the number “96” to correct a typographical error.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d) is amended to recodify the internal reference for consistency, and to add subparagraph (d)(4) to comply with the federal regulation. Former subparagraphs (d)(4) and (d)(5) are recodified (d)(5) and (d)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d)(5) (former paragraph 68.12(d)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, amended the internal citation to correct a typographical error, and to strike the phrase “of this part” for consistency and clarity.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(a)(1) is amended to strike the word “Material” before the phrase “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(b) is amended to remove capitalization for consistency.

Regulation 61-62.68, Section 68.56, Maintenance:

Paragraph 68.56(d) is amended to strike the symbol “=” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.58, Compliance audits:

Paragraph 68.58(a) is amended to strike the phrase “the rule” and add the phrase “this Subpart” for consistency with the federal regulation and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Section 68.60 is amended to insert paragraph 68.60(c) in alpha-numeric order for consistency with the federal regulation. Former paragraphs 68.60(c) through 68.60(f) are recodified 68.60(d) through 68.60(g) for consistency and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(a) is amended to strike the phrase “of a regulated substance” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(d) (former paragraph 68.60(c)) is amended to strike the word “summary” and replace with the word “report” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(g) (former paragraph 68.60(f)) is amended to add the word “incident,” and strike the word “summaries” and replace it with the word “reports” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(a) is amended to strike the phrase “In accordance with the schedule set forth in Section 68.67, the” and replace with “The” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(b) is amended to strike the word “Material” before “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

Paragraph 68.67(c)(2) is amended to strike the period and replace with a semicolon for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

Paragraph 68.67(d) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

Paragraph 68.67(f) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.73, Mechanical integrity:

Paragraph 68.73(d)(3) is amended to strike the symbol “=” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.79, Compliance audits:

Paragraph 68.79(a) is amended to strike the word “the” before the phrase “procedures and practices,” and amended to strike the phrase “the rule” and replace with the phrase “this Subpart” to comply with the federal regulation.

Regulation 61-62.68, Section 68.81, Incident investigation:

Paragraph 68.81(a) is amended to strike the phrase “of a regulated substance” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(a) is amended to add the phrase “Responding stationary source,” and amended to add citations to read “Sections 68.93, 68.95, and 68.96” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(b) is amended to add the phrase “Non-responding stationary source”, to add the word “a”, and to strike the phrase “they meet the following” for compliance with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(b)(2) is amended to strike the word “and” after the semicolon for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraphs 68.90(b)(4) and 68.90(b)(5) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.91-94 [Reserved]:

Section 68.91-94 is amended to strike “94” and replace with “92,” and to insert the new section title in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.93, Emergency response coordination activities:

Section 68.93 is added in alpha-numeric order to adopt federal language on emergency response coordination activities for compliance with the federal regulation.

Regulation 61-62.68, Section 68.94 [Reserved]:

Section 68.94 and the phrase “[Reserved]” are inserted in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.95, Emergency response program:

Paragraph 68.95(a)(1)(i) is amended to add “the appropriate federal, state, and” to comply with the federal regulation.

Regulation 61-62.68, Section 68.95, Emergency response program:

Paragraph 68.95(a)(4) is amended to add a second sentence to comply with the federal regulation.

Regulation 61-62.68, Section 68.96 Emergency response exercises:

Section 68.96 is added in alpha-numeric order to adopt federal language on emergency response exercises for compliance with the federal regulation.

Regulation 61-62.68, Section 68.96-99 [Reserved]:

Section 68.96-99 is amended to strike “96” and replace with “97” for clarity.

Regulation 61-62.68, Section 68.115, Threshold determination:

Paragraph 68.115(b)(2)(i) is amended to clarify an internal reference, and to add and update the contact information for the National Fire Protection Association to comply with the federal regulation.

Regulation 61-62.68, Section 68.125, Exemptions:

Section 68.125, Exemptions, is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.126, Exclusions:

Section 68.126 is amended to change the capitalization of the first sentence for consistency with federal regulations, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.150, Submission:

Paragraph 68.150(a) is amended to strike the word “a” between “shall be submitted in” and “method and format” and replaced with the word “the”, and to strike the word “as” between “the central point” and “specified by” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(a) is amended to strike the abbreviation “CRF” and replace with “CFR” to correct a typographical error, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(b)(1) is amended to add “and (b)(21)” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(c)(2) is amended to strike the abbreviation “ACBI≡” and replace with “CBI” to correct a typographical error.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(13) is amended to remove capitalization for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(19) is amended to strike the word “and” after the semicolon for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(20)(iv) is amended to strike the phrase “this part 68” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(21) is added in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.165, Offsite consequence analysis:

Paragraph 68.165(b)(5) is amended to strike the word “vaporization” and replace with the word “evaporation” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.168, Five-year accident history:

Section 68.168 is amended to strike the phrase “required by” and add the phrase “provided in” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.170, Prevention program/Program 2:

Paragraph 68.170(j) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(e) is amended to add a space between the word “Analysis” and the abbreviation “(PHA)” for clarity.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(l) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Section 68.180’s title is amended to add the phrase “and exercises” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a) is amended to strike the phrase “the following information” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(1) is amended to add contact information requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(2) is amended to add coordination date requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(3) is amended to add emergency plan requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraphs 68.180(a)(4) through 68.180(a)(6) are stricken for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b) is amended for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(1) and subparagraphs 68.180(b)(1)(i) through 68.180(b)(1)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(2) and subparagraphs 68.180(b)(2)(i) through 68.180(b)(2)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(c) is stricken in entirety for consistency with the federal regulation.

Regulation 61-62.68, Section 68.190, Updates:

Paragraph 68.190(a) is amended to strike the word “a” and replace with the word “the” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.195, Required corrections:

Paragraph 68.195(a) is amended to add the word “the” between “six months of” and “release or by” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.200, Recordkeeping:

Section 68.200 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68 at the stationary source”, and to add a comma after the word “years” for consistency with the federal regulation, and amended to strike the phrase “of this part” following the phrase “Subpart D” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(a) is amended to add the phrase “RMP availability”, and to add the citation “and 40 CFR Part 1400” for consistency with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is recodified 68.210(c) and amended to comply with the federal regulation.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is inserted in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a) is amended to add the word “Regulation” to the three citations for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(1) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(i) is amended to pluralize the word “Section” and add the citations “through (f) and 68.96(a) and (b)(2)(i),” after “Sections 68.10(a)” for consistency with the federal regulation, and amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(ii) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:
Paragraph 68.215(c) is amended to add the word “Regulation” for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:
Paragraph 68.215(d) is recodified 68.215(e) for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:
Paragraph 68.215(d) is added to denote delegation authority for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:
Paragraphs 68.215(e)(1) and 68.215(e)(3) are amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:
Paragraph 68.215(e)(4) is amended to recodify the internal reference for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220 Audits:
Section 68.220 is amended throughout to strike the phrase “or the agency designated by delegation or agreement” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220 Audits:
Section 68.220 is amended to strike paragraph 68.220(a) in entirety, and former paragraphs 68.220(b) through (k) are recodified 68.220(a) through (j) for consistency with the federal regulation. Internal citations throughout section are recodified for reorganization of regulatory text.

Regulation 61-62.68, Section 68.220 Audits:
Paragraph 68.220(a) (former paragraph 68.220(b)) is amended to strike the phrase “or the agency designated by delegation or agreement under paragraph (a) of this section,” and amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:
Paragraph 68.220(d) (former paragraph 68.220(e)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:
Paragraph 68.220(e) (former paragraph 68.220(f)) is amended to remove a space between “AIChE/” and “CCPS” for consistency and clarity, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:
Paragraph 68.220(f)(2) (former paragraph 68.220(g)(2)) is amended to add “to the Department the” before “written response”, and amended to strike the phrase “in accordance with” and replace with the word “under”, and amended to strike the word “issuance” and replace with the phrase “the issue”, and amended to strike the phrase “to the Department, or the agency designated by delegation or agreement” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220, Audits:
Paragraph 68.220(h) (former paragraph 68.220(i)) is amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(j) (former paragraph 68.220(k)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency, and to remove capitalization for consistency.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to R. Scott Bigleman of the Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; biglemrs@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 10, 2020, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at <http://www.scdhec.gov/Agenda>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

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: Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

Purpose: The EPA promulgated amendments to national air quality regulations in 2019. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2019, through December 31, 2019. Additionally, the Department proposes amending R.61-62.60 to add Subpart UUUUa, “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units,” to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The Department also proposes amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68 to ensure compliance with those regulations. The Department proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

Legal Authority: 1976 Code Sections 48-1-10 et seq.

Plan for Implementation: Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a

summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2019 included revised NSPS rules and NESHAPs for Source Categories. South Carolina is mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The proposed amendments also include amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The proposed revisions also include amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68, to ensure compliance with those regulations. The Department also proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

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 NSPS, NESHAP, and Chemical Accident Prevention standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. The Department proposes the addition of Subpart UUUUa to R.61-62.60 to facilitate required implementation of the ACE rule. Costs to the regulated community resulting from this amendment attributable to and required by the federal ACE rule.

The proposed amendments incorporate revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by clarifying and updating the regulations and increasing 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 recent changes in federal regulations through the proposed amendments to R.61-62 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 authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments are not adopted.

Text:

~~Indicates Matter Stricken~~
Indicates New Matter

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Regulation 61-62.60, Subpart B, shall be deleted in its entirety:

~~Subpart B – “Adoption and Submittal of State Plans for Designated Facilities”~~

~~—The provisions of 40 CFR Part 60 Subpart B, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.~~

40 CFR Part 60 Subpart B			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 44	November 9, 1979	[44 FR 65071]
Revision	Vol. 54	December 20, 1989	[54 FR 52189]
Revision	Vol. 60	December 19, 1995	[60 FR 65387]
Revision	Vol. 65	December 6, 2000	[65 FR 76378]
Revision	Vol. 70	October 13, 2005	[70 FR 59848]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]

Subpart Cf - “Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills”

(A) All designated facilities as defined at 40 CFR 60.31f must comply with the requirements of this subpart.

(B) The compliance times, emission guideline conditions and requirements, operational standards for collection and control systems, test methods and procedures, compliance provisions, monitoring requirements, reporting requirements, recordkeeping requirements, and specifications for active collection systems set forth in 40 CFR 60.32f through 60.40f, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein and applicable to each designated facility.

40 CFR Part 60 Subpart Cf			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 81	August 29, 2016	[81 FR 59276]
Revision	Vol. 84	August 26, 2019	[84 FR 44547]

(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, with the exception of the sections within this subpart that may not be delegated by the EPA.

(D) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

Regulation 61-62.60, Subpart CCCC, shall be revised as follows:

Subpart CCCC - “Standards of Performance for Commercial and Industrial Solid Waste Incineration Units”

The provisions of 40 CFR Part 60 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart CCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
Revision	Vol. 66	March 27, 2001	[66 FR 16605]
Revision	Vol. 70	September 22, 2005	[70 FR 55568]
Revision	Vol. 76	May 18, 2011	[76 FR 28662]
Revision	Vol. 78	February 7, 2013	[78 FR 9112]
Revision	Vol. 81	June 23, 2016	[81 FR 40956]
Revision	Vol. 84	April 16, 2019	[84 FR 15846]

Regulation 61-62.60, Subpart QQQQ title shall be revised as follows:

Subpart QQQQ - “Standards of Performance ~~For~~for New Residential Hydronic Heaters ~~And~~and Forced-Air Furnaces”

Regulation 61-62.60, Subpart TTTT title shall be revised as follows:

Subpart TTTT - “Standards of Performance ~~For~~for Greenhouse Gas Emissions ~~For~~for Electric Generating Units”

Regulation 61-62.60, Subpart UUUUa, shall be added in alpha-numeric order as follows:

Subpart UUUUa - “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units”

(A) Applicability: Except as provided in (B) below, “designated facilities” that commenced construction on or before January 8, 2014, and meet the criteria set forth in 40 CFR 60.5775a(b) are subject to this subpart and must comply with all applicable requirements of this subpart, and must comply with the plan that the Department develops to implement the emission guidelines as required in 40 CFR 60.5770a(a), including permit conditions adopted pursuant to such plan and this subpart.

(B) The types of units described in 40 CFR 60.5780a are excluded from this subpart.

(C) For purposes of this subpart, “you” means the owner or operator of the designated facility, and “Department” means the South Carolina Department of Health and Environmental Control.

(D) The Department will set a standard of performance for each designated facility according to 40 CFR 60.5755a and compliance periods for each standard of performance according to 40 CFR 60.5750a through construction permits issued to each designated facility. Construction permits issued pursuant to this provision will be subject to the public participation procedures in Regulation 61-62.1, Section II.N. Each designated facility shall comply with the applicable standard of performance, compliance period, and associated requirements as set forth in the facility's construction permit, in addition to those requirements set forth in this subpart.

(E) For the Department to determine a standard of performance for each designated facility according to 40 CFR 60.5735a and 60.5755a, and issue a construction permit, each designated facility must submit to the Department upon request the information set forth in (E)(1) through (E)(5) below. Submission in full of the information in (E)(1) through (E)(5), in combination with any additional application information under Regulation 61-62.1, Section II.C.3 requested by the Department as relevant, will constitute a designated facility's permit application for purposes of construction permits issued to satisfy the requirements of this subpart.

(1) An evaluation of the applicability of each of the heat rate improvements specified in 40 CFR 60.5740a(a)(1) to the designated facility;

(2) An evaluation of the degree of emission limitation achievable ranges set forth in Table 1 to 40 CFR 60.5740a(a)(2)(i) through application of the heat rate improvements at the designated facility;

(3) If applicable, a summary of the application of remaining useful life or other relevant factors as provided in 40 CFR 60.24a(e) in the Department's derivation of the designated facility's standard of performance;

(4) The information listed in 40 CFR 60.5740a(a)(4)(i) through (iv) as applicable; and

(5) Supporting material, including any other materials requested by the Department or otherwise necessary to support the Department's review and determination of standards of performance.

(F) Monitoring, Recordkeeping, and Reporting Requirements. Each designated facility must comply with the following requirements in accordance with the compliance schedule set forth in the designated facility's construction permit referenced in paragraph (D) of this subpart:

(1) You must either:

(a) Monitor and report emission and electricity generation data according to 40 CFR Part 75; or

(b) Implement an alternative monitoring, recordkeeping, and reporting program that meets the requirements of 40 CFR 60.5785a(a)(2). A designated facility implementing such a program shall conduct all alternative monitoring, recordkeeping, and reporting in accordance with specific requirements set forth in the construction permit referenced in paragraph (D) of this subpart.

(2) You must keep records for a minimum of five (5) years from the date the record is used to determine compliance with a standard of performance requirement. Each record must be in a form suitable and readily available for expeditious review.

(G) For the Department to consider a revised standard of performance for a designated facility, such designated facility shall submit to the Department, either of its own accord or upon Department request, the information specified in paragraph (E) of this subpart.

(H) Definitions of terms used in this subpart are set forth in 40 CFR 60.5805a, except as otherwise provided in paragraph (C).

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, Subpart A, shall be revised as follows:

Subpart A - “General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 63 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]
Revision	Vol. 69	January 2, 2004	[69 FR 130]
Revision	Vol. 69	February 3, 2004	[69 FR 5038]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 69	April 19, 2004	[69 FR 20968]
Revision	Vol. 69	April 22, 2004	[69 FR 21737]
Revision	Vol. 69	April 26, 2004	[69 FR 22602]
Revision	Vol. 69	June 15, 2004	[69 FR 33474]
Revision	Vol. 69	July 30, 2004	[69 FR 45944]
Revision	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	April 15, 2005	[70 FR 19992]
Revision	Vol. 70	May 20, 2005	[70 FR 29400]
Revision	Vol. 70	October 12, 2005	[70 FR 59402]
Revision	Vol. 71	February 16, 2006	[71 FR 8342]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	July 28, 2006	[71 FR 42898]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 72	January 3, 2007	[72 FR 26]
Revision	Vol. 72	January 23, 2007	[72 FR 2930]
Revision	Vol. 72	July 16, 2007	[72 FR 38864]
Revision	Vol. 72	October 29, 2007	[72 FR 61060]
Revision	Vol. 72	November 16, 2007	[72 FR 64860]
Revision	Vol. 72	December 26, 2007	[72 FR 73180]
Revision	Vol. 72	December 28, 2007	[72 FR 74088]
Revision	Vol. 73	January 2, 2008	[73 FR 226]
Revision	Vol. 73	January 9, 2008	[73 FR 1738]
Revision	Vol. 73	January 10, 2008	[73 FR 1916]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	February 7, 2008	[73 FR 7210]
Revision	Vol. 73	March 7, 2008	[73 FR 12275]
Revision	Vol. 73	July 23, 2008	[73 FR 42978]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	June 25, 2009	[74 FR 30366]
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	February 17, 2011	[76 FR 9450]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	April 17, 2012	[77 FR 22848]
Revision	Vol. 77	September 11, 2012	[77 FR 55698]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 78	February 1, 2013	[78 FR 7488]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	March 27, 2014	[79 FR 17340]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 80	September 18, 2015	[80 FR 56699]
Revision	Vol. 80	October 15, 2015	[80 FR 62389]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]
Revision	Vol. 83	October 15, 2018	[83 FR 51842]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]
<u>Revision</u>	<u>Vol. 84</u>	<u>February 28, 2019</u>	[84 FR 6676]
<u>Revision</u>	<u>Vol. 84</u>	<u>March 4, 2019</u>	[84 FR 7682]
<u>Revision</u>	<u>Vol. 84</u>	<u>March 15, 2019</u>	[84 FR 9590]

Regulation 61-62.63, Subpart HHHH, shall be revised as follows:

Subpart HHHH - “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”

The provisions of 40 CFR Part 63 Subpart HHHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart HHHH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	April 11, 2002	[67 FR 17824]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<u>Revision</u>	<u>Vol. 84</u>	<u>February 28, 2019</u>	[84 FR 6676]

Regulation 61-62.63, Subpart NNNN, shall be revised as follows:

Subpart NNNN - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”

The provisions of 40 CFR Part 63 Subpart NNNN, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart NNNN			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<u>Revision</u>	<u>Vol. 84</u>	<u>March 15, 2019</u>	<u>[84 FR 9590]</u>

Regulation 61-62.63, Subpart OOOO, shall be revised as follows:

Subpart OOOO - “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”

The provisions of 40 CFR Part 63 Subpart OOOO, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart OOOO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 69	August 4, 2004	[69 FR 47001]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	May 24, 2006	[71 FR 29792]
<u>Revision</u>	<u>Vol. 84</u>	<u>March 15, 2019</u>	<u>[84 FR 9590]</u>

Regulation 61-62.63, Subpart QQQQ, shall be revised as follows:

Subpart QQQQ - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”

The provisions of 40 CFR Part 63 Subpart QQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart QQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
<u>Revision</u>	<u>Vol. 84</u>	<u>March 4, 2019</u>	<u>[84 FR 7682]</u>

Regulation 61-62.63, Subpart RRRR, shall be revised as follows:

Subpart RRRR - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”

The provisions of 40 CFR Part 63 Subpart RRRR, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart RRRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

Regulation 61-62.63, Subpart TTTT, shall be revised as follows:

Subpart TTTT - “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”

The provisions of 40 CFR Part 63 Subpart TTTT, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart TTTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 70	February 7, 2005	[70 FR 6355]
Revision	Vol. 84	February 12, 2019	[84 FR 3308]

Regulation 61-62.63, Subpart JJJJJ title shall be revised as follows:

Subpart JJJJJ - “National Emission Standards ~~For~~ Hazardous Air Pollutants ~~For~~ Brick ~~And~~ Structural Clay Products Manufacturing”

Regulation 61-62.63, Subpart KKKKK, shall be revised as follows:

Subpart KKKKK - “National Emission Standards ~~For~~ Hazardous Air Pollutants ~~For~~ Clay Ceramics Manufacturing”

The provisions of 40 CFR Part 63, Subpart KKKKK, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 16, 2003	[67 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]
Revision	Vol. 71	April 20, 2006	[71 FR 20445]

40 CFR Part 63 Subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 71	June 23, 2006	[71 FR 36014]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 84	November 1, 2019	[84 FR 58601]

Regulation 61-62.63, Subpart QQQQQ, shall be revised as follows:

Subpart QQQQQ - “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”

The provisions of 40 CFR Part 63 Subpart QQQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart QQQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	October 18, 2002	[67 FR 64498]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	February 8, 2019	[84 FR 2742]

Regulation 61-62.63, Subpart CCCCC title shall be revised as follows:

Subpart CCCCC - “National Emission Standards ~~For~~for Hazardous Air Pollutants ~~For~~for Source Category: Gasoline Dispensing Facilities”

Regulation 61-62.68, Chemical Accident Prevention Provisions

Regulation 61-62.68.1 shall be revised as follows:

~~This part~~Regulation 61-62.68 sets forth the list of regulated substances and thresholds, the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, and the ~~S~~state accidental release prevention programs approved under ~~s~~Section 112(r) of the Clean Air Act. The list of substances, threshold quantities, and accident prevention regulations promulgated under ~~this part~~Regulation 61-62.68 do not limit in any way the general duty provisions under ~~s~~Section 112(r)(1) of the Clean Air Act.

Regulation 61-62.68.3 shall be revised as follows:

Terms used in ~~this part~~Regulation 61-62.68 that are not defined below or in Regulation 61-62.1, Section I, have the meaning given to them in the Clean Air Act and in 40 CFR Part 68, ~~s~~Subpart A.

(a) “**Accidental R**elease” means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) “**Administrative controls**” mean written procedural mechanisms used for hazard control.

(c) **Administrator** means the administrator of the U.S. Environmental Protection Agency.

(ed) “**AIChE/CCPS**” means the American Institute of Chemical Engineers/-Center for Chemical Process Safety.

(de) “**API**” means the American Petroleum Institute.

(ef) “**Article**” means a manufactured item, as defined under 29 CFR 1910.1200(b), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

(fg) “**ASME**” means the American Society of Mechanical Engineers.

(gh) “**CAS**” means the Chemical Abstracts Service.

(hi) “**Catastrophic release**” means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

(j) **CBI** means confidential business information.

(ik) “**Classified information**” means “classified information” as defined in the Classified Information Procedures Act, 18 U.S.C. App. 3, sSection 1(a) as “any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.”

(jl) “**Condensate**” means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

(km) “**Covered process**” means a process that has a regulated substance present in more than a threshold quantity as determined under Section 68.115.

(ln) “**Crude oil**” means any naturally occurring, unrefined petroleum liquid.

(o) **DOT** means the United States Department of Transportation.

(mp) “**Environmental receptor**” means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in Section 68.22(a)-, as a result of an accidental release and that can be identified on local U.-S. Geological Survey maps.

(q) **Field gas** means gas extracted from a production well before the gas enters a natural gas processing plant.

(nr) “**Hot work**” means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

~~(o) “Field gas” means gas extracted from a production well before the gas enters a natural gas processing plant.~~

(ps) “**Injury**” means any effect on a human that results either from direct exposure to toxic concentrations;

radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

(t) **LEPC** means local emergency planning committee as established under 42 U.S.C. 11001(c).

(qu) **“Major change”** means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

(fv) **“Mechanical integrity”** means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

(sw) **“Medical treatment”** means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.

(tx) **“Mitigation or mitigation system”** means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.

~~(u) “Natural gas processing plant (gas plant)” means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).~~

(vy) **“NAICS”** means North American Industry Classification System.

(z) **Natural gas processing plant (gas plant)** means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

(waa) **“NFPA”** means the National Fire Protection Association.

(xbb) **“Offsite”** means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

(ycc) **“OSHA”** means the U.S. Occupational Safety and Health Administration.

(zdd) **“Owner or operator”** means any person who owns, leases, operates, controls, or supervises a stationary source.

(aace) **“Petroleum refining process unit”** means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; separating petroleum; or separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating,

catalytic hydrotreating, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

(bfff) **“Population”** means the public.

(eegg) **“Process”** means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

(ddhh) **“Produced water”** means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

(eeii) **“Public”** means any person except employees or contractors at the stationary source.

(ffjj) **“Public receptor”** means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

(ggkk) **“Regulated substance”** means any substance listed pursuant to sSection 112(r)(3) of the Clean Air Act as amended, in Section 68.130.

(hhll) **“Replacement in kind”** means a replacement that satisfies the design specifications.

(mm) **Retail facility** means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(iinn) **“RMP”** means the risk management plan required under sSubpart G of this part.

(jjoo) **“Stationary source”** means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of Regulation 61-62.68. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 CFR pParts 192, 193, or 195, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. sSection 60105. ~~The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part.~~ A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

(kkpp) **“Threshold quantity”** means the quantity specified for regulated substances pursuant to sSection 112(r)(5) of the Clean Air Act as amended, listed in Section 68.130 and determined to be present at a stationary source as specified in Section 68.115 of this part.

(Hqq) “**Typical meteorological conditions**” means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

~~(mm) “USDOT” means the United States Department of Transportation.~~

~~(nnr) “Vessel” means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.~~

(oess) “**Worst-case release**” means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 68.22(a).

~~“Retail facility” means a stationary source at which more than one half of the income is obtained from direct sales to end users or at which more than one half of the fuel sold, by volume, is sold through a cylinder exchange program.~~

Regulation 61-62.68.10 shall be revised as follows:

(a) ~~An~~ Except as provided in paragraphs (b) through (f) of this section, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under Section 68.115, shall comply with the requirements of ~~this part~~ Regulation 61-62.68 no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under Section 68.130; ~~or~~

(3) The date on which a regulated substance is first present above a threshold quantity in a process; ~~or~~

(4) For any revisions to Regulation 61-62.68 that incorporate revisions to 40 CFR Part 68, the effective date of the final rule that revises 40 CFR Part 68.

(b) By March 14, 2018, the owner or operator of a stationary source shall comply with the emergency response coordination activities in Section 68.93, as applicable.

(c) Within three (3) years of when the owner or operator determines that the stationary source is subject to the emergency response program requirements of Section 68.95, pursuant to Section 68.90(a), the owner or operator must develop and implement an emergency response program in accordance with Section 68.95.

(d) By December 19, 2023, the owner or operator shall have developed plans for conducting emergency response exercises in accordance with provisions of Section 68.96, as applicable.

(e) The owner or operator of a stationary source shall comply with the public meeting requirement in Section 68.210(b) within ninety (90) days of any RMP reportable accident at the stationary source with known offsite impacts specified in Section 68.42(a), that occurs after March 15, 2021.

(f) After December 19, 2024, for any RMP initially submitted as required by Section 68.150(b)(2) or (3) or submitted as an update required by Section 68.190, the owner or operator shall comply with the following risk management plan provisions of Subpart G:

- (1) Reporting a public meeting after an RMP reportable accident under Section 68.160(b)(21);
- (2) Reporting emergency response program information under Section 68.180(a)(1);
- (3) Reporting emergency response program information under Section 68.180(a)(2) and (3), as applicable; and,
- (4) Reporting emergency response program and exercises information under Section 68.180(b), as applicable. The owner or operator shall submit dates of the most recent notification, field, and tabletop exercises in the RMP, for exercises completed as required under Section 68.96 at the time the RMP is either submitted under Section 68.150(b)(2) or (3), or is updated under Section 68.190.

(~~bg~~) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 68.12(b) if it meets all of the following requirements:

(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following offsite:

- (i) Death;
- (ii) Injury; or
- (iii) Response or restoration activities for an exposure of an environmental receptor;

(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and Section 68.25 is less than the distance to any public receptor, as defined in Section 68.30; and

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(~~eh~~) Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of either paragraph (~~bg~~) or paragraph (~~di~~) of this section.

(~~di~~) Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of paragraph (~~bg~~) of this section, and if either of the following conditions is met:

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or

(2) The process is subject to the OSHA process safety management standard, 29 CFR 1910.119.

(~~ej~~) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 68.190.

(~~fk~~) The provisions of ~~this part~~ Regulation 61-62.68 shall not apply to an Outer Continental Shelf (OCS) source, as defined in 40 CFR 55.2.

Regulation 61-62.68.12 shall be revised as follows:

(a) General requirements. The owner or operator of a stationary source subject to ~~this part~~ Regulation 61-62.68 shall submit a single RMP, as provided in ~~Sees. Sections~~ 68.150 to 68.185. The RMP shall include a registration that reflects all covered processes.

(b) Program 1 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 68.10(~~bg~~), shall:

(1) Analyze the worst-case release scenario for the process(es), as provided in Section 68.25; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 68.22(a); and submit in the RMP the worst-case release scenario as provided in Section 68.165;

(2) Complete the five-year accident history for the process as provided in Section 68.42 ~~of this part~~ and submit it in the RMP as provided in Section 68.168;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and

(4) Certify in the RMP the following: “Based on the criteria in ~~Section 40~~ CFR 68.10, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program rule (~~See. 40 CFR~~ 68.10(~~bg~~)(1)). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. [Signature, title, date signed].”

(c) Program 2 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 2, as provided in Section 68.10(~~eh~~), shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in ~~Sees. Sections~~ 68.20 through 68.42;

(3) Implement the Program 2 prevention steps provided in ~~Sees. Sections~~ 68.48 through 68.60 or implement the Program 3 prevention steps provided in ~~Sees. Sections~~ 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

(45) Develop and implement an emergency response program, and conduct exercises, as provided in ~~Sees. Sections~~ 68.90 to 68.9596; and

(56) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 68.170.

(d) Program 3 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 68.10(d) shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in ~~Sees.~~Sections 68.20 through 68.42;

(3) Implement the prevention requirements of ~~Sees.~~Sections 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

~~(45) Develop and implement an emergency response program, and conduct exercises, as provided in Sees.~~Sections 68.90 to 68.95 ~~of this part~~96; and

~~(56)~~ Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.

Regulation 61-62.68.28(e)(2) shall be revised as follows:

(2) Failure scenarios identified under ~~Sees.~~Sections 68.50 or 68.67.

Regulation 61-62.68.42(b)(11) shall be revised as follows:

(11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with ~~See.~~Section 68.168.

Regulation 61-62.68.48(a)(1) shall be revised as follows:

(1) ~~Material~~ Safety Data Sheets (SDS) that meet the requirements of 29 CFR 1910.1200(g);

Regulation 61-62.68.48(b) shall be revised as follows:

(b) The owner or operator shall ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Compliance with ~~F~~ederal or ~~S~~tate regulations that address industry-specific safe design or with industry-specific design codes and standards may be used to demonstrate compliance with this paragraph.

Regulation 61-62.68.56(d) shall be revised as follows:

(d) The owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

Regulation 61-62.68.58(a) shall be revised as follows:

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this

subpart at least every three years to verify that the procedures and practices developed under ~~the rule~~this Subpart are adequate and are being followed.

Regulation 61-62.68.60 shall be revised as follows:

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release ~~of a regulated substance~~.

(b) The owner or operator shall initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.

(c) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

~~(ed)~~ The owner or operator shall prepare a summary report at the conclusion of the investigation which includes at a minimum:

- (1) Date of incident;
- (2) Date investigation began;
- (3) A description of the incident;
- (4) The factors that contributed to the incident; and,
- (5) Any recommendations resulting from the investigation.

~~(de)~~ The owner or operator shall promptly address and resolve the investigation findings and recommendations. Resolutions and corrective actions shall be documented.

~~(ef)~~ The owner or operator shall ensure that the findings are reviewed with all affected personnel whose job tasks are affected by the findings.

~~(fg)~~ The owner or operator shall retain the incident investigation summaries reports for five years.

Regulation 61-62.68.65(a) shall be revised as follows:

~~(a) In accordance with the schedule set forth in Section 68.67, the~~ The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

Regulation 61-62.68.65(b) shall be revised as follows:

(b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:

- (1) Toxicity information;
- (2) Permissible exposure limits;
- (3) Physical data;
- (4) Reactivity data;
- (5) Corrosivity data;
- (6) Thermal and chemical stability data; and
- (7) Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.

Material-Safety Data Sheets (SDS) meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

Regulation 61-62.68.67(c)(2) shall be revised as follows:

- (2) The identification of any previous incident which had a likely potential for catastrophic consequences;

Regulation 61-62.68.67(d) shall be revised as follows:

(d) ~~A-The process hazard analysis shall be performed by a team with expertise in engineering and process operations shall perform, and the process hazard analysis.~~ The team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

Regulation 61-62.68.67(f) shall be revised as follows:

(f) ~~A team meeting the requirements in paragraph (d) of this section shall, at~~ At least every five (5) years after the completion of the initial process hazard analysis, ~~updated and revalidate the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section,~~ to assure that the process hazard analysis is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph.

Regulation 61-62.68.73(d)(3) shall be revised as follows:

(3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

Regulation 61-62.68.79(a) shall be revised as follows:

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this subpart at least every three years to verify that ~~the~~ procedures and practices developed under ~~the rule this Subpart~~ are adequate and are being followed.

Regulation 61-62.68.81(a) shall be revised as follows:

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance.

Regulation 61-62.68.90(a) shall be revised as follows:

(a) Responding stationary source. Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Sections 68.93, 68.95, and 68.96.

Regulation 61-62.68.90(b) shall be revised as follows:

(b) Non-responding stationary source. The owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with Section 68.95 of this part provided that they meet the following:

(1) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003;

(2) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the owner or operator has coordinated response actions with the local fire department; and

(3) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

(4) The owner or operator performs the annual emergency response coordination activities required under Section 68.93; and

(5) The owner or operator performs the annual notification exercises required under Section 68.96(a).

Regulation 61-62.68.91-94 shall be revised as follows:

Section 68.91-9492 [Reserved]

Regulation 61-62.68.93 shall be added in alpha-numeric order as follows:

Section 68.93 Emergency response coordination activities.

The owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.

(a) Coordination shall occur at least annually, and more frequently if necessary, to address changes: At the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

(b) Coordination shall include providing to the local emergency planning and response organizations: The

stationary source's emergency response plan if one exists; emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan. For responding stationary sources, coordination shall also include consulting with local emergency response officials to establish appropriate schedules and plans for field and tabletop exercises required under Section 68.96(b). The owner or operator shall request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss those materials.

(c) The owner or operator shall document coordination with local authorities, including: The names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

(d) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

Regulation 61-62.68.94 shall be added in alpha-numeric order as follows:

Section 68.94 [Reserved]

Regulation 61-62.68.95(a)(1)(i) shall be revised as follows:

(i) Procedures for informing the public and the appropriate federal, state, and local emergency response agencies about accidental releases;

Regulation 61-62.68.95(a)(4) shall be revised as follows:

(4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes. The owner or operator shall review and update the plan as appropriate based on changes at the stationary source or new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information, and ensure that employees are informed of the changes.

Regulation 61-62.68.96 shall be added in alpha-numeric order as follows:

Section 68.96 Emergency response exercises.

(a) Notification exercises. At least once each calendar year, the owner or operator of a stationary source with any Program 2 or Program 3 process shall conduct an exercise of the stationary source's emergency response notification mechanisms required under Section 68.90(b)(3) or Section 68.95(a)(1)(i), as appropriate, before December 19, 2024, and annually thereafter. Owners or operators of responding stationary sources may perform the notification exercise as part of the tabletop and field exercises required in paragraph (b) of this section. The owner/operator shall maintain a written record of each notification exercise conducted over the last five (5) years.

(b) Emergency response exercise program. The owner or operator of a stationary source subject to the requirements of Section 68.95 shall develop and implement an exercise program for its emergency response program, including the plan required under Section 68.95(a)(1). Exercises shall involve facility emergency response personnel and, as appropriate, emergency response contractors. When planning emergency response field and tabletop exercises, the owner or operator shall coordinate with local public emergency

response officials and invite them to participate in the exercise. The emergency response exercise program shall include:

(1) Emergency response field exercises. The owner or operator shall conduct field exercises involving the simulated accidental release of a regulated substance (i.e., toxic substance release or release of a regulated flammable substance involving a fire and/or explosion).

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for field exercises.

(ii) Scope. Field exercises shall involve tests of the source's emergency response plan, including deployment of emergency response personnel and equipment. Field exercises should include: Tests of procedures to notify the public and the appropriate federal, state, and local emergency response agencies about an accidental release; tests of procedures and measures for emergency response actions including evacuations and medical treatment; tests of communications systems; mobilization of facility emergency response personnel, including contractors, as appropriate; coordination with local emergency responders; emergency response equipment deployment; and any other action identified in the emergency response program, as appropriate.

(2) Tabletop exercises. The owner or operator shall conduct a tabletop exercise involving the simulated accidental release of a regulated substance.

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for tabletop exercises, and shall conduct a tabletop exercise before December 21, 2026, and at a minimum of at least once every three (3) years thereafter.

(ii) Scope. Tabletop exercises shall involve discussions of the source's emergency response plan. The exercise should include discussions of: Procedures to notify the public and the appropriate federal, state, and local emergency response agencies; procedures and measures for emergency response including evacuations and medical treatment; identification of facility emergency response personnel and/or contractors and their responsibilities; coordination with local emergency responders; procedures for emergency response equipment deployment; and any other action identified in the emergency response plan, as appropriate.

(3) Documentation. The owner or operator shall prepare an evaluation report within ninety (90) days of each field and tabletop exercise. The report should include: A description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.

(c) Alternative means of meeting exercise requirements. The owner or operator may satisfy the requirement to conduct notification, field and/or tabletop exercises through:

(1) Exercises conducted to meet other federal, state, or local exercise requirements, provided the exercises meet the requirements of paragraphs (a) and/or (b) of this section, as appropriate.

(2) Response to an accidental release, provided the response includes the actions indicated in paragraphs (a) and/or (b) of this section, as appropriate. When used to meet field and/or tabletop exercise requirements, the owner or operator shall prepare an after-action report comparable to the exercise evaluation report

required in paragraph (b)(3) of this section, within ninety (90) days of the incident.

Regulation 61-62.68.96-99 shall be revised as follows:

Section 68.9697-99 [Reserved]

Regulation 61-62.68.115(b)(2)(i) shall be revised as follows:

(i) General provision. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether more than a threshold quantity of the regulated substance is present at the stationary source. Except as provided in paragraph (b)(2)-(ii) and (b)(2)(iii) of this section, if the concentration of the substance is one percent or greater by weight of the mixture, then, for purposes of determining whether a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Quincy, MA, 1996 (~~available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101~~). Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, National Fire Protection Association, Quincy, MA, 1996 (~~available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101~~). Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The owner or operator shall document the National Fire Protection Association flammability hazard rating.

Regulation 61-62.68.125 shall be revised as follows:

Agricultural nutrients. Ammonia used as an agricultural nutrient, when held by farmers, is exempt from all provisions of ~~this part~~ Regulation 61-62.68.

Regulation 61-62.68.126 shall be revised as follows:

~~Flammable substances used as fuel or held for sale as fuel at retail facilities.~~ Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities. A flammable substance listed in Tables 3 and 4 of Section 68.130 is nevertheless excluded from all provisions of ~~this part~~ Regulation 61-62.68 when the substance is used as a fuel or held for sale as a fuel at a retail facility.

Regulation 61-62.68.130(a) shall be revised as follows:

(a) Regulated toxic and flammable substances under ~~s~~Section 112(r) of the Clean Air Act are the substances listed in Tables 1, 2, 3, and 4. Threshold quantities for listed toxic and flammable substances are specified in the tables.

Regulation 61-62.68.150(a) shall be revised as follows:

(a) The owner or operator shall submit a single RMP that includes the information required by ~~Sees. Sections~~ 68.155 through 68.185 for all covered processes. The RMP shall be submitted in ~~a~~the method and format to the central point ~~as~~ specified by EPA as of the date of submission.

Regulation 61-62.68.150(c) shall be revised as follows:

(c)—The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by ~~See. Sections~~ 68.160(b)(6) and (14) by June 21, 2004, in the manner specified by EPA prior to that date.— Any such submission shall also include the information required by ~~See. Sections~~ 68.160(b)(20) (indicating that the submission is a correction to include the information required by ~~See. Sections~~ 68.160(b)(6) and (14) or an update under ~~See. Sections~~ 68.190).

Regulation 61-62.68.150(d) shall be revised as follows:

(d) -RMPs submitted under this section shall be updated and corrected in accordance with ~~Sees. Sections~~ 68.190 and 68.195.

Regulation 61-62.68.151(a) shall be revised as follows:

(a) Except as provided in paragraph (b) of this section, an owner or operator of a stationary source required to report or otherwise provide information under ~~this part~~ Regulation 61-62.68 may make a claim of confidential business information for any such information that meets the criteria set forth in 40 ~~CRF~~ CFR 2.301.

Regulation 61-62.68.151(b)(1) shall be revised as follows:

(1) Registration data required by Section 68.160(b)(1) through (b)(6) and (b)(8), (b)(10) through (b)(13), ~~and (b)(21),~~ and NAICS code and Program level of the process set forth in Section 68.160(b)(7);

Regulation 61-62.68.151(c)(2) shall be revised as follows:

(2) A sanitized (redacted) copy of the RMP, with the notation ~~ACBI~~—“CBI” substituted for the information claimed confidential, except that a generic category or class name shall be substituted for any chemical name or identity claimed confidential; and

Regulation 61-62.68.160(b) shall be revised as follows:

(b) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

(2) The stationary source Dun and Bradstreet number;

- (3) Name and Dun and Bradstreet number of the corporate parent company;
- (4) The name, telephone number, and mailing address of the owner or operator;
- (5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;
- (6) The name, title, telephone number, 24 - hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;
- (7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;
- (8) The stationary source EPA identifier;
- (9) The number of full-time employees at the stationary source;
- (10) Whether the stationary source is subject to 29 CFR 1910.119;
- (11) Whether the stationary source is subject to 40 CFR Part 355;
- (12) If the stationary source has a CAA Title V operating permit, the permit number;
- (13) The date of the last safety inspection of the stationary source by a ~~F~~federal, ~~S~~state, or local government agency and the identity of the inspecting entity;
- (14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);
- (15) Source or Parent Company E-mail Address (Optional);
- (16) Source Homepage address (Optional):
- (17) Phone number at the source for public inquiries (Optional);
- (18) Local Emergency Planning Committee (Optional);
- (19) OSHA Voluntary Protection Program status (Optional); ~~and~~
- (20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:
 - ___(i) Updates and re-submissions required under ~~See-Section~~ 68.190(b);
 - ___(ii) Corrections under ~~See-Section~~ 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in ~~See-Section~~ 68.190(b);

—(iii) De-registrations required under ~~See~~ Section 68.190(c); and

—(iv) Withdrawals of an RMP for any facility that was erroneously considered subject to ~~this part~~ 68Regulation 61-62.68.

(21) Whether a public meeting has been held following an RMP reportable accident, pursuant to Section 68.210(b).

Regulation 61-62.68.165(b)(5) shall be revised as follows:

(5) Scenario (explosion, fire, toxic gas release, or liquid spill and ~~vaporization~~ evaporation);

Regulation 61-62.68.168 shall be revised as follows:

The owner or operator shall submit in the RMP the information ~~required by~~ provided in Section 68.42(b) on each accident covered by Section 68.42(a).

Regulation 61-62.68.170(j) shall be revised as follows:

(j) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.

Regulation 61-62.68.175(e) shall be revised as follows:

(e) The date of completion of the most recent Process Hazard Analysis (PHA) or update and the technique used.

Regulation 61-62.68.175(l) shall be revised as follows:

(l) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation;

Regulation 61-62.68.180 shall be revised as follows:

Section 68.180 Emergency response program and exercises.

(a) The owner or operator shall provide in the RMP ~~the following information:~~

(1) ~~Whether he or she has a written emergency response plan; Name, phone number, and email address of local emergency planning and response organizations with which the stationary source last coordinated emergency response efforts, pursuant to Section 68.10(g)(3) or Section 68.93;~~

(2) ~~Whether the plan includes specific actions to be taken in response to an accidental release of a regulated substance; The date of the most recent coordination with the local emergency response organizations, pursuant to Section 68.93; and~~

(3) ~~Whether the plan includes procedures for informing the public and local agencies responsible for responding to accidental releases; A list of federal or state emergency plan requirements to which the stationary source is subject.~~

—(4) ~~Whether the plan includes information on emergency health care;~~

~~—(5) The date of the most recent review or update of the emergency response plan; and~~

~~—(6) The date of the most recent emergency response training for employees.~~

(b) The owner or operator shall ~~provide the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.~~ identify in the RMP whether the facility is a responding stationary source or a non-responding stationary source, pursuant to Section 68.90.

(1) For non-responding stationary sources, the owner or operator shall identify:

(i) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, whether the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003, pursuant to Section 68.90(b)(1);

(ii) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the date of the most recent coordination with the local fire department, pursuant to Section 68.90(b)(2);

(iii) What mechanisms are in place to notify the public and emergency responders when there is a need for emergency response; and

(iv) The date of the most recent notification exercise, as required in Section 68.96(a).

(2) For responding stationary sources, the owner or operator shall identify:

(i) The date of the most recent review and update of the emergency response plan, pursuant to Section 68.95(a)(4);

(ii) The date of the most recent notification exercise, as required in Section 68.96(a);

(iii) The date of the most recent field exercise, as required in Section 68.96(b)(1); and

(iv) The date of the most recent tabletop exercise, as required in Section 68.96(b)(2).

~~(c) The owner or operator shall list other Federal or State emergency plan requirements to which the stationary source is subject.~~

Regulation 61-62.68.190(a) shall be revised as follows:

(a) The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in ~~a the~~ method and format to ~~a the~~ central point specified by EPA as of the date of submission.

Regulation 61-62.68.195(a) shall be revised as follows:

(a) New accident history information—For any accidental release meeting the five-year accident history reporting criteria of ~~See Section~~ 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under ~~Sees Sections~~ 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under ~~See Section~~ 68.190, whichever is earlier.

Regulation 61-62.68.195(b) shall be revised as follows:

(b) Emergency contact information—Beginning June 21, 2004, within one month of any change in the emergency contact information required under ~~See~~ Section 68.160(b)(6), the owner or operator shall submit a correction of that information.

Regulation 61-62.68.200 shall be revised as follows:

The owner or operator shall maintain records supporting the implementation of ~~this part~~ Regulation 61-62.68 at the stationary source for five years, unless otherwise provided in ~~sSubpart D of this part~~.

Regulation 61-62.68.210(a) shall be revised as follows:

(a) RMP availability. The RMP required under ~~sSubpart G of this part~~ shall be available to the public under 42 U.S.C. 7414(c) and 40 CFR Part 1400.

Regulation 61-62.68.210(b) shall be revised as follows:

(b) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under Section 68.42(b), no later than ninety (90) days after any RMP reportable accident at the stationary source with any known offsite impact specified in Section 68.42(a).

(bc) Classified and restricted information. The disclosure of ~~classified~~ classified or restricted information by the Department of Defense or other ~~F~~ederal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

Regulation 61-62.68.215(a) shall be revised as follows:

(a) These requirements apply to any stationary source subject to Regulation 61-62.68 and Regulation 61-62.70. The Regulation 61-62.70 permit for the stationary source shall contain:

(1) A statement listing ~~this part~~ Regulation 61-62.68 as an applicable requirement;

(2) Conditions that require the source owner or operator to submit:

(i) A compliance schedule for meeting the requirements of ~~this part~~ Regulation 61-62.68 by the date provided in Sections 68.10(a) through (f) and 68.96(a) and (b)(2)(i), or;

(ii) As part of the compliance certification submitted under ~~sSection~~ Section 61-62.70.6(c)(5), a certification statement that the source is in compliance with all requirements of ~~this part~~ Regulation 61-62.68, including the registration and submission of the RMP.

Regulation 61-62.68.215(c) shall be revised as follows:

(c) For Regulation 61-62.70 permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in paragraph (a) of this section, the owner or operator or the Department shall initiate permit revision or reopening according to the procedures of ~~sSection~~ Section 61-62.70.7 to incorporate the terms and conditions consistent with paragraph (a) of this section.

Regulation 61-62.68.215(d) and (e) shall be revised as follows:

(d) The Department may delegate the authority to implement and enforce the requirements of paragraph (e) of this section to a state or local agency or agencies other than the Department. An up-to-date copy of any delegation instrument shall be maintained by the Department. The state may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of paragraph (e) of this section.

~~(de)~~ The Department will, at a minimum:

(1) Verify that the source owner or operator has registered and submitted an RMP or a revised plan when required by ~~this part~~ Regulation 61-62.68;

(2) Verify that the source owner or operator has submitted a source certification or in its absence has submitted a compliance schedule consistent with paragraph (a)(2) of this section;

(3) For some or all of the sources subject to this section, use one or more mechanisms such as, but not limited to, a completeness check, source audits, record reviews, or facility inspections to ensure that permitted sources are in compliance with the requirements of ~~this part~~ Regulation 61-62.68; and

(4) Initiate enforcement action based on paragraphs ~~(de)~~(1) and ~~(de)~~(2) of this section as appropriate.

Regulation 61-62.68.220 shall be revised as follows:

~~(a) The State may partially delegate the authority to implement and enforce the requirements of this section to a State agency or agencies other than the Department. An up-to-date copy of any delegation instrument will be maintained by the Department. The Department may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of this section.~~

~~(ba)~~ In addition to inspections for the purpose of regulatory development and enforcement of the Act, the Department, ~~or the agency designated by delegation or agreement under paragraph (a) of this section,~~ will periodically audit RMPs submitted under sSubpart G of this part to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with sSubpart G of this part.

~~(eb)~~ The Department, ~~or the agency designated by delegation or agreement,~~ will select stationary sources for audits based on any of the following criteria:

- (1) Accident history of the stationary source;
- (2) Accident history of other stationary sources in the same industry;
- (3) Quantity of regulated substances present at the stationary source;
- (4) Location of the stationary source and its proximity to the public and environmental receptors;
- (5) The presence of specific regulated substances;
- (6) The hazards identified in the RMP; and
- (7) A plan providing for neutral, random oversight.

~~(dc)~~ Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary

protection program shall be exempt from audits under paragraphs (eb)(2) and (eb)(7) of this section.

(ed) The owner or operator of a stationary source subject to ~~this part~~ Regulation 61-62.68 shall provide the Department, ~~or the agency designated by delegation or agreement,~~ access to the stationary source, supporting documentation, and any area where an accidental release could occur.

(fe) Based on the audit, the Department, ~~or the agency designated by delegation or agreement,~~ may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP meets the criteria of sSubpart G ~~of this part~~. The preliminary determination ~~will~~ shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/-CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and ~~will~~ shall include a timetable for their implementation.

(gf) Written response to a preliminary determination.

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph (fe) of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) The owner or operator shall provide to the Department the written response ~~in accordance with under~~ paragraph (gf)(1) ~~to the Department, or the agency designated by delegation or agreement,~~ within ninety (90) days ~~of issuance~~ the issue of the preliminary determination or a shorter period of time as the Department, ~~or the agency designated by delegation or agreement,~~ specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department, ~~or the agency designated by delegation or agreement,~~ may provide in writing additional time for the response to be received.

(hg) After providing the owner or operator an opportunity to respond under paragraph (gf) of this section, the Department, ~~or the agency designated by delegation or agreement,~~ may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph (fe) of this section or may adopt or modify the substitute revisions provided in the response under paragraph (gf) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph (gf) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.

(ih) Thirty (30) days after completion of the actions detailed in the implementation schedule set in the final determination under paragraph (hg) of this section, the owner or operator shall be in violation of sSubpart G ~~of this part~~ and this section unless the owner or operator revises the RMP prepared under sSubpart G ~~of this part~~ as required by the final determination, and submits the revised RMP as required under Section 68.150.

(ji) The public shall have access to the preliminary determinations, responses, and final determinations under this section in a manner consistent with Section 68.210.

(kj) Nothing in this section shall preclude, limit, or interfere in any way with the authority of EPA, the

Department, ~~or the agency designated by delegation or agreement,~~ to exercise its enforcement, investigatory, and information gathering authorities concerning ~~this part~~ Regulation 61-62.68 under other ~~S~~state or ~~F~~sederal ~~S~~statutes.

ATTACHMENT B

12 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control ("Department") proposes amending R.61-62, Air Pollution Control Regulations and Standards. Interested persons may submit comments on the proposed amendments to R. Scott Bigleman of the Air Regulation and SIP Management Section, Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; or via email at biglemrs@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on March 30, 2020, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department 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.61-62.68, Chemical Accident Prevention Provisions, to incorporate by reference federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units," also known as the Affordable Clean Energy rule (ACE), as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 C.F.R. Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 C.F.R. Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department may also propose other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes may include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement of the text of R.61-62 as necessary.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments to maintain compliance with federal law.