

Air Quality

State Register Document 4650, Amendment of R.61-62, Air Pollution Control Regulations and Standards (61-61.1; 61-62.5, Standards 1, 2, 3, 3.1 & 4; 61-61.60; 61-62.63)

Synopsis:

Pursuant to the South Carolina Pollution Control Act, Section 48-1-10 et seq., along with the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the 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. 42 U.S.C. Section 7416. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 51, 52, 60, 61, 63 and 70 include clarification, guidance and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. 7410 & 7413, New Source Performance Standards (“NSPS”) mandated by 42 U.S.C. 7411, and federal National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories.

The Department has amended Regulation 61-62.1, *Section III, Emissions Inventory and Emissions Statements*; Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; Regulation 61-62.5, *Standard No. 2, Ambient Air Quality Standards*; and the SIP, to codify federal amendments to these standards promulgated from January 1, 2015, through December 31, 2015.

The Department also made changes to: Regulation 61-62.1, *Section II, Permit Requirements*; Regulation 61-62.5, *Standard No.1, Emissions from Fuel Burning Operations*; and Regulation 61-62.5, *Standard No. 4, Emissions from Process Industries*, to address periods of excess emissions during startup, shutdown, or malfunction (SSM) events as required by the EPA in response to a national petition for rulemaking and to address a finding of substantial inadequacy (referred to as a ‘SIP call’) (80 FR 33840, June 12, 2015).

The Department also made other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

Status:

The Department initiated the statutory process to amend R.61-62 by publication of a Notice of Drafting in the S.C. State Register on February 26, 2016 and in the DHEC Regulation Development Update. The drafting comment period closed March 28, 2016. On June 9, 2016, the DHEC Board approved public notice. A Notice of Proposed Regulations with notice of opportunity for public comment was published as Document 4650 in the S.C. State Register on June 24, 2016. After public hearing September 8, 2016, the DHEC Board found for the need and reasonableness of the proposed regulations. These regulations took effect as law by publication as final regulations in State Register Volume 40 Issue 9 on September 23, 2016 and can be viewed on the S.C. Legislature Online website at <http://www.scstatehouse.gov/regs/4650.docx>. For additional information contact Caitlin Bell, Air Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at bellcl@dhec.sc.gov.

State Register Document_____, Proposed Amendment of R.61-62, Air Pollution Control Regulations and Standards (re: amendment of 61-62.1; 61-62.5, Standards 5.2, 7 and 7.1; 61-62.60; 61-62.61; 61-62.70; and addition of new 61-62.97)

Synopsis:

1. Pursuant to the South Carolina Pollution Control Act, S.C. Code Section 48-1-10 et seq. (2008), along with the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the S.C. Department of Health and Environmental Control 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.
2. The United States Environmental Protection Agency (“EPA”) promulgates amendments to the Code of Federal Regulations (“CFR”) throughout each calendar year. Recent federal amendments to 40 CFR Parts 50, 51, 52, 60, 61, 63 and 70 include clarification, guidance and technical amendments regarding state implementation plan (“SIP”) requirements promulgated pursuant to 42 U.S.C. Sections 7410 & 7413, New Source Performance Standards (“NSPS”) mandated by 42 U.S.C. Section 7411, federal National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories mandated by 42 U.S.C Section 7412, and Prevention of Significant Deterioration (“PSD”) and Title V Operating Program provisions promulgated under title I and title V of the CAA.
3. The Department proposes to amend Regulation 61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; Regulation 61-62.70, Title V Operating Permit Program; and the South Carolina SIP, to adopt the federal amendments to these standards promulgated from January 1, 2016, through December 31, 2016.
4. The Department also proposes to add Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, to incorporate the EPA’s CSAPR trading program for South Carolina in 40 CFR Part 97 for NO_x (Annual) and SO₂ (Annual), as published in the Federal Register on August 8,

2011 (76 FR 48208) and subsequently amended on June 12, 2012 (77 FR 34830), December 3, 2014 (79 FR 71663), and October 26, 2016 (81 FR 74504). This regulation will address mandatory transport and regional haze SIP infrastructure elements pursuant to 42 U.S.C. Sections 7410 and 7491.

5. The Department is also proposing other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

6. South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the State or its political subdivisions resulting from codification of these amendments to federal law. The state of South Carolina is already reaping the environmental benefits of these amendments.

7. In accordance with S.C. Code Section 1-23-120(H) (Supp. 2016), legislative review is not required 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.

Status:

The Department initiated the statutory process for amendment of R.61-62 by publication of a Notice of Drafting in the State Register and also in the DHEC Regulation Development Update on January 27, 2017, Notice was also sent out via Department list serve to interested stakeholders. The drafting comment period closed February 27, 2017, and no comments were received. On May 11, 2017, Department staff intends to request the DHEC Board to approve the proposed regulations for public notice and comment. If approved, a Notice of Proposed Regulations with opportunity for public comment would be published in the State Register on May 26, 2017. For additional information, contact Marie F. Brown, Air Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at brownmf@dhec.sc.gov.