

## R.61-62, Air Pollution Control Regulations and Standards – Final Amendment

State Register Document No. 4978

Exempt from General Assembly review

Link to published Notice of Final Regulation (“NFR”): [www.scstatehouse.gov/regs/4978.docx](http://www.scstatehouse.gov/regs/4978.docx)

### Status |

NFR published/Legal effect: December 25, 2020

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### Summary |

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 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.

## History |

NOD published; comment period started:	February 28, 2020
NOD comment period closed:	March 30, 2020
Board approval to publish NPR:	August 13, 2020
NPR published; comment period started:	August 28, 2020
NPR comment period closed:	September 28, 2020
Public Hearing:	December 10, 2020