

**SOUTH CAROLINA BOARD OF HEALTH
AND ENVIRONMENTAL CONTROL**

STANDING ORDER

*RE: Appeals from Department Decisions Giving Rise to Contested Cases,
S.C. Code Section 44-1-60*

Whereas, the South Carolina Board of Health and Environmental Control (the "Board") may conduct such administrative reviews as may be required by law, as considered necessary by the Board to render a final agency determination in matters involving the issuance, denial, renewal or revocation of permits, licenses, or other actions of the department which may give rise to a contested case pursuant to Chapter 23 of Title 1. See S.C. Code § 44-1-50.

Whereas, all Department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses or other actions of the Department which may give rise to a contested case shall be made using the procedures set forth in S.C. Code Section 44-1-60. See S.C. Code § 44-1-60.

Whereas, the Board approved a Final Review Procedure, the most recent version effective December 1, 2022, to provide for the administration of the procedures set forth in S.C. Code Section 44-1-60.

Whereas, an applicant, permittee, licensee, or affected person may file a request with the Administrative Law Court for a contested case hearing within thirty days after: (1) notice is mailed to the applicant, permittee, licensee, and affected person that the board declined to hold a final review conference; or (2) the sixty day deadline to hold the final review conference lapses and no conference has been held; or (3) the final agency decision resulting from the final review conference is received by the parties.


Whereas, pursuant to Act 60 of 2023, the South Carolina Department of Health and Environmental Control and the Board are abolished, effective July 1, 2024.

NOW THEREFORE, considering the foregoing and to ensure properly filed requests for review pursuant to S.C. Code Section 44-1-60 are timely addressed:

1. the Chairwoman, in her sole discretion, may direct the Clerk of the Board to adjust time frames and procedures contained in the Final Review Procedure that was effective December 1, 2022, to provide for processing of requests for final review properly filed pursuant to S.C. Code Section 44-1-60 prior to **May 24, 2024**;
2. the Board declines to conduct a final review conference if it receives a properly filed request for final review of a staff decision pursuant to S.C. Code Section 44-1-60 on or after **May 24, 2024**;

3. the Clerk of the Board is hereby instructed to provide a copy of this Order and the requisite written notice of the Board's decision to decline to conduct a final review conference in the event the Clerk of the Board receives such a request on or after **May 24, 2024**;
4. because July 1, 2024, falls on a Monday, requests for Board review will not be accepted for filing after **5:00 PM** on **Friday, June 28, 2024**; and
5. the attached Board Review Procedure (Attachment 1) is adopted for requests filed on or after **May 24, 2024**.

IT IS SO ORDERED.


Seema Shrivastava-Patel, Chairwoman
Board of Health and Environmental Control
For the Board

May 21, 2024

Attachment 1

South Carolina Board of Health and Environmental Control

Final Review Procedure for Requests for Review (RFRs) filed on or after May 24, 2024

Staff sends the Guide to Board Review [Exhibit 1] to the applicant, permittee, licensee, and/or affected persons with every notice of decision involving the issuance, denial, renewal, suspension or revocation of permits, licenses, or other actions of the Department which may give rise to a contested case. Alternatively, the cover letter for the decision may reference the website where the Guide can be found and provide instructions for obtaining a copy of the Guide if internet access is not available. The Guide can be found at the following website address:

<https://scdhec.gov/about-dhec/sc-board-health-environmental-control/guide-board-review>

Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by the Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day.
2. **Until June 10, 2024**, RFRs should be filed on-line (scdhec.gov/FileRFR) or in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

After June 10, 2024, RFRs should be filed in person at the above-referenced address.

RFRs may be filed at any time with the Clerk by electronic mail (boardclerk@dhec.sc.gov) until 5:00 PM on Friday, June 28, 2024.

3. Pursuant to to Act 60 of 2023, the Board is abolished, effective Monday, July 1, 2024. **No RFRs will be accepted after 5:00 PM on Friday, June 28, 2024.**
4. RFRs shall be in writing and should include, at a minimum, the following information:
 - the grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;

- a copy of the decision for which review is requested; and
- the name of the Requestor and the Requestor's mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted. If the Requestor consists of a group of individuals, a representative of the group should be identified to receive all notices and communications related to the RFR for the group.

All information submitted is subject to release under the Freedom of Information Act. If the RFR and accompanying documentation contain information the Requestor believes should not be released, such information should be identified.

5. The filing fee may be paid by cash, check or credit card and must be received by the 15th day. Credit card payments may be made by phone (803-898-3460, option 2) or prior to June 10, 2024, on-line at scdhec.gov/FileRFR.
6. If there is any perceived discrepancy in compliance with this RFR filing procedure or any other procedural question, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
7. **RFRs filed with the Board on or after May 24, 2024, shall be denied.** The Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTICE

Pursuant to Act 60 of 2023, the South Carolina Board of Health and Environmental Control is abolished, effective Monday, July 1, 2024. Additionally, the South Carolina Department of Health and Environmental Control (DHEC) will become two, new separate agencies — the South Carolina Departments of Environmental Services (SCDES) and Public Health (DPH). This Guide to Board Review is applicable to requests filed with the Board on or after May 24, 2024.

Exhibit 1

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with the Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day.
2. **Until June 10, 2024**, RFRs should be filed on-line (scdhec.gov/FileRFR) or in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

After June 10, 2024, RFRs should be filed in person at the above-referenced address.

RFRs may be filed at any time prior to 5:00 PM on Friday, June 28, 2024, with the Clerk by electronic mail (boardclerk@dhec.sc.gov).

3. Pursuant to Act 60 of 2023, the Board is abolished, effective Monday, July 1, 2024. **No RFRs will be accepted after 5:00 PM on Friday, June 28, 2024.**
4. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and

- the name of the Requestor and the Requestor's mailing address, email address, if applicable, and phone number(s) at which the Requestor can be contacted. If the Requestor consists of a group of individuals, a representative of the group should be identified to receive all notices and communications related to the RFR for the group.

All information submitted is subject to release under the Freedom of Information Act. If the RFR and accompanying documentation contain information the Requestor believes should not be released, such information should be identified.

5. The filing fee may be paid by cash, check or credit card and must be received by the 15th day. Credit card payments may be made by phone (803-898-3460, option 2) or prior to June 10, 2024, on-line at scdhec.gov/FileRFR.
6. If there is any perceived discrepancy in compliance with this RFR filing procedure or any other procedural question, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
7. **Pursuant to the Standing Order approved by the Board on May 21, 2024, any RFR filed with the Board on or after May 24, 2024, will be denied.** The Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.