

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 13

Statutory Authority: 1976 Code Sections 35-1-101 et seq.

Notice of Drafting:

The Office of the Attorney General proposes to amend certain current Regulations and promulgate additional regulations to implement the South Carolina Uniform Securities Act of 2005 and to reflect other developments in securities regulation since 2005. Interested persons may submit comments to Thresechia Navarro, Office of the S.C. Attorney General, Securities Division, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on December 29, 2008, the close of the drafting comment period.

Synopsis:

The Office of the Attorney General proposes to update and clarify the current Regulations. Legislative review of the proposed regulations will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) is proposing to amend R. 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality State Implementation Plan (SIP). Specifically, the Department proposes to amend R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and R. 61-62.72, Acid Rain, by removing all provisions of the “Clean Air Mercury Rule” (CAMR). Also, the Department proposes to amend R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by removing all provisions of three “Maximum Achievable Control Technology” (MACT) standards. Interested persons are invited to present their views in writing to Christopher L. Vaigneur, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by December 29, 2008, the close of the drafting comment period.

Synopsis:

On May 18, 2005, the United States Environmental Protection Agency (EPA) published a final rule titled “Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units” (70 FR 28606), also referred to as the CAMR. This final rule established standards of performance for mercury (Hg) emissions for new and existing coal-fired electric utility steam generating units (EGUs) as defined in Section 111 of the Clean Air Act. This final rule became effective July 18, 2005.

In accordance with this rule, states were required to adopt standards of performance for Hg emissions reductions by submitting an implementation plan, referred to as a “111(d) Plan”, which requires State rulemaking action followed by submittal to the EPA for review and approval. On January 11, 2007, a public hearing was held, wherein the Board of Health and Environmental Control gave approval for the regulation to be presented to the General Assembly. The Department submitted the State CAMR package to the EPA on March 8, 2007, for parallel processing. The State’s CAMR became state-effective upon its publication in the South Carolina State Register on June 22, 2007 (Vol. 31, Issue 6, Document No. 3083). The final package for the State CAMR was submitted to the EPA on August 16, 2007, for approval. On February 8, 2008, the United States Court of Appeals for the District of Columbia Circuit (Court of Appeals) vacated the CAMR (Case No. 05-1097). The EPA filed a

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petition for a rehearing by the full Court of Appeals, but the petition was denied. On October 17, 2008, the U.S. Department of Justice filed an appeal with the U.S. Supreme Court requesting that the court overturn the Court of Appeals vacatur of the CAMR.

On May 16, 2003, the EPA published a final rule (68 FR 26690) establishing national emission standards for hazardous air pollutants for new and existing sources at brick and structural clay products manufacturing facilities as well as new and existing sources at clay ceramics manufacturing facilities (40 CFR 63, subparts JJJJJ and KKKKK, respectively). These final rules became effective May 16, 2003, and were incorporated by reference in R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by a Notice of Final Regulation published in the South Carolina State Register on September 24, 2004 (Vol. 28, Issue 9, Document No. 2913). On March 13, 2007, the Court of Appeals vacated these rules (Case No. 03-1202).

On September 13, 2004, the EPA published a final rule (69 FR 55218) establishing NESHAP for industrial, commercial, and institutional boilers and process heaters (40 CFR 63, subpart DDDDD). This final rule became effective November 12, 2004, and was incorporated by reference in R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by a Notice of Final Regulation published in the South Carolina State Register on August 26, 2005 (Vol. 29, Issue 8, Document No. 2980). On June 8, 2007, the Court of Appeals vacated this rule (Case No. 04-1385).

The Department proposes to amend R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, R. 61-62.72, Acid Rain, and R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by removing all provisions of the CAMR and the aforementioned vacated MACT rules published in the Federal Register on May 16, 2003, and September 13, 2004, respectively. The Department may also propose typographical corrections and clarifications to R. 61-62 as necessary.

A previous Notice of Drafting that was published in the State Register on September 26, 2008, addressed several of the proposed amendments included in this drafting notice. The previously proposed amendments are being included again as well as additional related proposals that were inadvertently omitted from the September notice.

The proposed amendments will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-30 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend R.61-79, Hazardous Waste Management Regulations. Interested persons are invited to present their views in writing to Richard Haynes, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Tuesday, January 6, 2009, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (USEPA) promulgated amendments to 40 CFR 260, 261, 264, and 266 during the previous calendar year. Recent federal amendments affect three Final Rules in the period between July 1, 2007 and June 30, 2008. The first Rule provides for an exclusion to the definition of solid waste for oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled by inserting them back into the petroleum refining process. The second Rule finalizes amendments to the National Emission Standards for Hazardous Air Pollutants, clarifying compliance monitoring provisions, and correcting