

10 PROPOSED REGULATIONS

Document No. 5473

DEPARTMENT OF ENVIRONMENTAL SERVICES

CHAPTER 61

Statutory Authority: 1976 Code Sections 13-7-40 et seq., 30-4-45, 48-6-10 et seq., 2022 Act No. 119, Section 5, effective January 27, 2022, and 2026 Act No. 146, effective May 15, 2026

61-47. Shellfish.
61-50. Natural Public Swimming Areas.
61-63. Radioactive Materials (Title A).
61-107.20. Solar Energy Systems.
61-117. Access to Restricted Information.

Preamble:

On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act 60), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to Act 60, DHEC and the DHEC Board were abolished, and the South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of Act 60, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC, including the power and duty to promulgate associated regulations.

On May 15, 2026, Governor McMaster signed 2026 S.C. Act 146 (Act 146). Act 146 entails statutory cleanup associated with the restructuring of DHEC to SCDES and the South Carolina Department of Public Health (DPH). Act 146 amended statutory provisions previously associated with DHEC to reflect authorities provided for in the restructuring. Pursuant to S.C. Code Ann. Section 48-6-60(A) and Section 231(B) of Act 146, SCDES is vested with all the functions, powers, and duties, including the power and duty to promulgate associated regulations, for the safety and sanitation in the harvesting, storing, processing, handling, and transportation of mollusks, fin fish, and crustaceans, as well as the safety, safe operation, and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs.

SCDES proposes amending the above-referenced regulations to reflect the restructuring of DHEC pursuant to Act 60 and Act 146, to revise related references, and to make non-substantive, grammatical changes.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

SCDES had a Notice of Drafting published in the July 24, 2026, South Carolina State Register.

Section-by-Section Discussion:

Section	Type of Change	Purpose
R.61-47		
61-47(A)(2)(v)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
61-47(A)(2)(mm)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
61-47(A)(2)(kkk)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
61-47(C)(2)(g)(2)(d)(10)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
61-47(G)(2)(a)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES

61-47(H)(2)(e)	Revision	Updated citation of S.C. Code to reflect the abolishment of DHEC and creation of SCDES.
61-47(H)(2)(f)	Revision	Updated citation of S.C. Code to reflect the abolishment of DHEC and creation of SCDES.
61-47(P)(2)	Revision	Updated citation of S.C. Code to reflect the abolishment of DHEC and creation of SCDES.
R.61-50		
61-50(B)(4)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
R.61-63		
61-63, RHA 2.4.8.3.1	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
R.61-107.20		
61-107.20(B)(2)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES
R.61-117		
61-117(B)(1)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments on the proposed amendments to Holly Randolph of the South Carolina Department of Environmental Services at 2600 Bull Street, Columbia, S.C. 29201; or via email at holly.randolph@des.sc.gov. To be considered, SCDES must receive the comment(s) no later than 5:00 p.m. on October 26, 2026, the close of the comment period.

Should a public hearing on the proposed regulations be requested by qualifying entities or the requisite number of persons pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, the South Carolina Administrative Law Court will conduct a public hearing on Friday, November 20, 2026, beginning at 1:00 p.m. at the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, S.C. 29201. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received by 5:00 p.m. on October 26, 2026, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

There is no anticipated cost increase to the state or its political subdivisions resulting from these proposed revisions. The proposed amendments comply with and implement 2023 Act No. 60 and 2026 Act No. 146. These amendments will benefit the regulated community by clarifying and updating the preexisting DHEC regulations now implemented by SCDES and improving their ease of use.

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: R.61-47, Shellfish, R.61-50, Natural Public Swimming Areas, R.61-63, Radioactive Materials (Title A), R.61-107.20, Solar Energy Systems, R.61-117, Access to Restricted Information.

Purpose: On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act 60), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to Act 60, DHEC and the DHEC Board were abolished, and the South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of Act 60, SCDES

12 PROPOSED REGULATIONS

was vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC, including the power and duty to promulgate associated regulations.

On May 15, 2026, Governor McMaster signed 2026 S.C. Act 146 (Act 146). Act 146 entails statutory cleanup associated with the restructuring of DHEC to SCDES and the South Carolina Department of Public Health (DPH). Act 146 amended statutory provisions previously associated with DHEC to reflect authorities provided for in the restructuring. Pursuant to S.C. Code Ann. Section 48-6-60(A) and Section 231(B) of Act 146, SCDES is vested with all the functions, powers, and duties, including the power and duty to promulgate associated regulations, for the safety and sanitation in the harvesting, storing, processing, handling, and transportation of mollusks, fin fish, and crustaceans, as well as the safety, safe operation, and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs.

SCDES proposes amending R.61-47, Shellfish, R.61-50, Natural Public Swimming Areas, R.61-63, Radioactive Materials (Title A), R.61-107.20, Solar Energy Systems, and R.61-117, Access to Restricted Information, to reflect the restructuring of DHEC pursuant to Act 60 and Act 146, to revise related references, and to make non-substantive, grammatical changes.

Legal Authority: 1976 Code Sections 13-7-40 et seq., 30-4-45, 48-6-10 et seq., 2022 Act No. 119, Section 5, effective January 27, 2022, and 2026 Act No. 146, effective May 15, 2026.

Plan for Implementation: Upon taking legal effect, SCDES personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The SCDES Regulations Currently Under Amendment and Recently Finalized webpage (accessible at <https://www.des.sc.gov/permits-regulations/regulations-regulatory-updates/regulations-currently-under-amendment-recently-finalized>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Freedom of Information Office within SCDES.

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

Pursuant to S.C. Code Ann. Sections 48-6-10 et seq. and Section 231(B) of 2026 S.C. Act 146 (Act 146), the South Carolina Department of Environmental Services (SCDES) is vested with all the functions, powers, and duties, including the power and duty to promulgate associated regulations, of the environmental divisions, offices, and programs of the South Carolina Department of Health and Environmental Control (DHEC), including the safety and sanitation in the harvesting, storing, processing, handling, and transportation of mollusks, fin fish, and crustaceans, as well as the safety, safe operation, and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs. Additionally, pursuant to S.C. Code Ann. Sections 13-7-40 et seq., 30-4-45, and Section 5 of 2022 S.C. Act No. 119, SCDES is vested with the authority to promulgate regulations related to the control of ionizing and nonionizing radiation, to regulate access to information in accordance with S.C. Code Ann. Section 30-4-45, and to guide all South Carolinians invested in, selling, installing, and using photovoltaic modules and energy storage system batteries in the management of end-of-life photovoltaic modules and energy storage system batteries on solar projects and the decommissioning of solar projects in excess of thirteen acres.

SCDES proposes these amendments to reflect the restructuring of DHEC pursuant to Act 60 and Act 146, to revise related references, and to make non-substantive, grammatical changes. These amendments are necessary and reasonable to implement the agency restructuring. These amendments will benefit the regulated community by clarifying and updating the preexisting DHEC regulations now implemented by SCDES and improving their ease of use.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated cost increase to the state or its political subdivisions resulting from these proposed revisions. The proposed amendments comply with and implement 2023 Act No. 60 and 2026 Act No. 146. These amendments will benefit the regulated community by clarifying and updating the preexisting DHEC regulations now implemented by SCDES and improving 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 proposed amendments to R.61-47, R.61-50, R.61-63, R.61-107.20, and R.61-117, 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 regulations must be amended to reflect the restructuring of DHEC and the creation of SCDES. These regulations are beneficial to the public health and environment, and their clarity would be compromised if these amendments were not adopted.

Statement of Rationale:

SCDES proposes amendments to R.61-47, R.61-50, R.61-63, R.61-107.20, and R.61-117 to reflect the restructuring of DHEC pursuant to 2023 S.C. Act 60 and 2026 S.C. Act 146, to revise related references, and to make non-substantive, grammatical changes. The state's regulations must be amended to reflect the restructuring of DHEC and the creation of SCDES. These amendments are necessary and reasonable to implement the agency restructuring.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5474

DEPARTMENT OF ENVIRONMENTAL SERVICES

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq., 48-6-10 et seq., 2023 Act No. 60, effective July 1, 2024, and 2026 Act No. 146, effective May 15, 2026

61-68. Water Classifications and Standards.

61-69. Classified Waters.

Preamble:

Pursuant to Section 303(c) of the federal Clean Water Act (CWA), South Carolina's water quality standards must be reviewed at least once every three years. Referred to as the triennial review, this required process consists of reviewing and amending, where appropriate, water classifications, designated uses, water quality criteria, site-specific standards, and antidegradation policy. The South Carolina Department of Environmental Services (Department) will review and adopt, where appropriate, the Environmental Protection Agency's updated numeric and narrative criteria according to Section 304(a), Section 304(f), and Section 307(a) of the CWA. In