



March 24, 2026

Submitted via email

Andrew Edwards, P.E.
Bureau of Water Standards Coordinator
South Carolina Department of Environmental Services
2600 Bull Street
Columbia, South Carolina 29201

**RE: PROPOSED AMENDMENT OF REGULATION R.61-68
WATER QUALITY STANDARDS SUBJECT TO THE CLEAN WATER ACT**

Dear Mr. Edwards:

On behalf of South Carolina Manufacturers and Commerce (SCMC), please see the comments below in response to the South Carolina Department of Environmental Services (SCDES) request for comments for the 2026 Triennial Review. Having reviewed the Notice of Drafting in the February 2026 State Register, we offer the following comments to supplement our letter of January 22, 2026, on this topic.

The SCMC requests SCDES not incorporate EPA's recommendations for updated aquatic life criteria at this time. Federal law does not require the State to adopt the EPA criteria as the EPA criteria are merely recommendations, and DES has not yet completed aquatic life and employment studies necessary to amend these State water quality standards (it is premature to do so). As an example, a prior triennial review pulled back a proposal for updating the aluminum criterion since SCDES had not studied the impact and benefits for South Carolina. The administrative argument is similar to the principles in our January 22, 2026, letter. [Attachment A]

SCMC requests Water Quality Standards (WQS) be developed consistent with EPA guidance and South Carolina Pollution Control Act. State law provides that "[t]he classes and standards described in Sections G and H of [Regs. 61-68] implement State policy [in the Pollution Control Act Section 48-1-20." Regs. 61-68.E.1. The cited State policy provides "[i]t is declared to be the public policy of the State to **maintain reasonable standards** of purity of the air and water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine fauna and flora, and the protection of physical property and other resources. by protecting the waters of South Carolina." The Act further states, "[t]he Department, after public hearing as herein provided, shall adopt standards and determine what qualities and properties of water and air shall indicate a polluted condition and **these standards shall be**

promulgated and made a part of the rules and regulations of the Department.” Accordingly, S.C. Code Ann. Regs. 61-68, Section E.16 should be revised as follows: “The Department may consider other scientifically-defensible published data which are appropriate for use in developing permit limits and evaluating water quality for constituents [**and promulgated in regulations consistent with the Pollution Control Act.**]” The Act further provides “permit requirements...do not apply to: * * * *(b) discharges for which the department has no regulatory permitting program; (c) discharges exempted by the department from permitting requirements,....” S.C. Code Ann. 48-1-90(A)(2)(b)(c). The Department has the authority to establish an emergency regulation under the SC Pollution Control Act, S.C. Code Ann. 48-1-90(A)(4) and 290, and this may be the proper avenue for addressing pollutants of emerging concern. We are concerned use of “surrogate criterion” in perpetuity outside the rule-making process violates the States implementing authority.

The potential promulgation of technology based effluent limits (TBELs) on a case-by-case basis and outside of the EPA rulemaking process is also concern to SCMC. The actual method for imposing TBELs in any NPDES permit is set forth in S.C. Code Ann. Regs. 61-9.125, and consistent with S.C. Regs. 61-9.122.44(a)(1), requires all TBELs promulgated by EPA as part of the effluent limitation guideline (ELG) for a class or category of industry be included in a permit. If no ELG has been promulgated for that pollutant, then the Department may impose case-by-case effluent limitations. See, Regs. 61-9.125.1(c)(1)-(3).

(c) Methods of imposing technology-based treatment requirements in permits. Technology-based treatment requirements may be imposed through one of the following three methods:

- (1) Application of EPA-promulgated effluent limitations developed under section 304 of the CWA to dischargers by category or subcategory. . . .
- (2) On a case-by-case basis under section 402(a)(1) of the CWA, to the extent that EPA-promulgated effluent limitations are inapplicable. . . .
- (3) Through a combination of the methods in paragraphs (d)(1) and (d)(2) of this section. Where promulgated effluent limitations guidelines only apply to certain aspects of the discharger’s operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the CWA and Pollution Control Act.

S.C. Code Ann. Regs. 61-9.125.3(c). This provision may not be read to require a case-by-case TBEL in the absence of an individual TBEL for a pollutant in any categorical standard. Accordingly, the following change to Regs. 61-9.125 is necessary to preserve to Department discretion to impose TBELs where EPA has declined to do so for a specific pollutant:

125.1. Purpose and scope.

This part establishes criteria and standards for the imposition of technology-based treatment requirements in permits under section 48-1-90 of the South Carolina Pollution Control Act and section 301(b) of the Federal Clean Water Act, including the application of EPA promulgated effluent limitations, and **[at the discretion of the Department consistent with the Pollution Control Act, may or may not impose]** case-by-case **[technology based]** effluent limitations under this regulation and section 402(a)(1) of the Clean Water Act.

* * * * *

125.3. Technology-based treatment requirements in permits.

- (a) General. Technology-based treatment requirements **[set forth in EPA regulations establishing categorical standards]** under section 301(b) of the CWA represent the minimum level of control that must be imposed in an NPDES permit issued under section 402 of the CWA. (See R.61-9.122.41, 122.42, and 122.44 for a discussion of additional or more stringent effluent limitations and conditions.) NPDES permits shall contain the following technology-based treatment requirements in accordance with the following statutory deadlines:

* * * * *

- (c) Methods of imposing technology-based treatment requirements in permits. Technology-based treatment requirements may be imposed through one of the following three methods;

(1) Application of EPA-promulgated effluent limitations developed under section 304 of the CWA to dischargers by category or subcategory. These effluent limitations are not applicable to the extent that they have been remanded or withdrawn. However, in the case of a court remand, determinations underlying effluent limitations shall be binding in permit issuance proceedings where those determinations are not required to be reexamined by a court remanding the regulations. In addition, dischargers may seek fundamentally different factors variances from these effluent limitations under R.61-9.122.21 and Part D of this regulation.

(2) On a case-by-case basis under section 402(a)(1) of the CWA, to the extent that EPA-promulgated effluent limitations are inapplicable. **[The Department is not required to provide for case-by-case technology based effluent limitations. In the event case-by-case effluent limitations are determined to be required, t]**he permit writer shall apply the appropriate factors listed in section 125.3(d) and shall consider:

- (i) The appropriate technology for the category or class of point sources of which the applicant is a member, based upon all available information; and
(ii) Any unique factors relating to the applicant.

(3) Through a combination of the methods in paragraphs (d)(1) and (d)(2) of this section. Where promulgated effluent limitations guidelines only apply to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis **[at the discretion of the Department based upon the analysis of subpart (2) above]** in order to carry out the provisions of the CWA and Pollution Control Act.

Thank you for your consideration of these comments. If you have any questions, we would be happy to discuss. We look forward to participating in the 2026 Triennial Review process.

Sincerely,

A handwritten signature in cursive script that reads "Sara Hazzard".

Sara Hazzard
President and CEO
South Carolina Manufacturers and Commerce

ATTACHMENT A



January 22, 2026

Andrew Edwards
Bureau of Water
South Carolina Department of Environmental Services
2600 Bull Street
Columbia, South Carolina 29201

RE: PROPOSED AMENDMENT OF REGULATION R.61-68, WATER CLASSIFICATION STANDARDS

On behalf of South Carolina Manufactures and Commerce (SCMC), please see the below comments in response to the South Carolina Department of Environmental Services (DES) request for preliminary recommendations for the 2026 Triennial Review.

EXECUTIVE SUMMARY

In response to the South Carolina Department of Environmental Services (DES) request for preliminary recommendations, South Carolina Manufacturers and Commerce (SCMC) requests DES not incorporate EPA's recent recommendations for updated ambient water quality criteria for ninety-four (94) chemical pollutants ("EPA Criteria"). Federal law does not require the State to adopt the EPA Criteria, the EPA Criteria are merely recommendations, and DES has not yet completed human health and employment studies necessary to amend State WQS.

STANDARD OF REVIEW

To be valid, regulations must be promulgated in accordance with terms of the implementing statute:

Boards of health and other sanitary authorities have no inherent legislative power; **they cannot by their rules and regulations enlarge or vary the powers conferred on them by the law** creating them and defining their powers, and any rule or regulation which is inconsistent with such law, or which is antagonistic to the general law of the state, is invalid.

30A C.J.S., Health and Environment, §14, adopted by South Carolina Attorney General, S.C. Attorney Gen. Op. No. 89-61 (May 17, 1989) (emphasis added). Accordingly, the EPA Criteria

may only be promulgated into State water quality standards (WQS) if they do not violate substantive or procedural requirements of South Carolina law.

ADMINISTRATIVE BACKGROUND

In a January 12, 2026, email, DES requested comments from SCMC, Environmental Committee, on the (“DES Request”), even though the actual Triennial Review has not yet been published. This “PUBLIC COMMENT: PROPOSED AMENDMENT OF REGULATION R.61-68, WATER CLASSIFICATION STANDARDS” (“SCMC Comment”) is submitted in response to the DES Request.

Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires DES periodically review and revise State WQS where necessary, but at least once every three years. To date, DES has declined to incorporate the ninety-four EPA Criteria into South Carolina WQS because they are merely recommendations and requisite studies under the South Carolina Pollution Control Act (PCA) have not been completed for each pollutant. EPA published the updated and “recommended” ambient EPA Criteria in 2015. 80 **Federal Register** 36986 (June 29, 2015). EPA Criteria are described by EPA as providing “technical information for states and authorized tribes to consider and use in adopting water quality standards that ultimately provide the basis for assessing water body health and controlling discharges of pollutants into waters of the United States.” 80 **Federal Register** at 36987.

South Carolina existing WQS are based on human health and aquatic life studies and may be found at S.C. Code Ann. Regs. 61-68, Appendix. DES describe the existing WQS as “set[ting] forth the classifications of our state's waters and establishes water quality standards that protect and maintain the existing and classified uses of those waters.” <https://des.sc.gov/programs/bureau-water/water-quality-standards/water-quality-standards-south-carolina>.

DES has not yet completed studies or reviews of the EPA Criteria, the need for them in waters of this State, or effect on employment and industrial development in the State. "DES Regulatory Development Update," p.16 (September 23, 2016) (the Notice would incorporate EPA Criterion by reference); 80 Federal Register at 36989, Vol. 1 (EPA Criterion drafted without performing site specific studies in South Carolina waters and "using externally peer-reviewed information sources" only).

If adopted into State regulations, effluent limits for all State wastewater discharge permits would have to be revised to require wastewater discharges comply with effluent limits that cause ambient water bodies to meet the new EPA Criteria. The EPA Criteria are as much as 1,000 times more stringent than existing State WQS, which would substantially lower allowable effluent limits and necessarily require upgrades to pre-treatment technology for industrial dischargers to rivers or streams and publicly owned treatment works (POTW)¹. Cf. 80 Federal Register at 36987, Table 1, 1, _2, 4 Trichlorobenzene (Revised WQS of 0.071 ug/L) and S.C. Codes Ann. R. 61-68, Appendix, No. 92, 1, 2, 4 Trichlorobenzene (current WQS of 35 ug/L and MCL of 70 ug/L).

¹ POTW dischargers would also be subject to lower effluent limits and in turn, the POTWs would lower effluent limits in permits for the indirect industrial users covering the EPA Criteria.

ANALYSIS OF EPA CRITERIA

SCMC opposes incorporation of EPA Criteria into South Carolina regulations without site and chemical specific studies by DES as required by State law. The EPA Criteria are only recommendations and State statutes require a more detailed evaluation of how the EPA Criteria may actually affect water bodies and economic development in the state.

SCMC COMMENT NO. 1: EPA DOES NOT MANDATE EPA CRITERIA BE ADOPTED BY REFERENCE AND WITHOUT STATE ANALYSIS

Despite implications to the contrary, Federal, and State law provide the EPA Criterion are not binding on DES and are only recommendations:

EPA's **recommended criteria** do not substitute for the CWA or regulations, nor are they regulations themselves. Thus, EPA's **recommended criteria do not impose legally binding requirements. States and authorized tribes have the discretion** to adopt, where appropriate, other scientifically defensible water quality criteria that differ from these recommendations. Ultimately, however, such criteria must protect the designated use and be based on sound scientific rationale.

80 Federal Register at 36987, Col. 3. Because the EPA Criteria are not “required” and are merely “recommended” values, DES should not feel compelled to enforce them as part of the pending 2026 Triennial Review.

And, EPA warned against states simply adopting the EPA Criteria into State regulations by reference: “The EPA's **recommended** ambient water quality criteria for the protection of human health provide technical **information for states and authorized tribes to establish water quality standards** (i.e., criteria) to protect human health under the Clean Water Act.” *Id.*(emphasis added). In fact, EPA declined to finalize a proposed rule in 2015, which would have required states that do not adopt new or revised EPA Criteria verbatim to provide an explanation to EPA and the public as to why the state did not do so. *Id.*

In any event, it is not clear the EPA Criteria are enforceable under recent Supreme Court precedent. EPA Criteria are used to enforce in-stream water quality values and are not themselves effluent limits. In *City and County of San Francisco v. EPA*, 604 U.S. ___, Docket no.23-753 (March 4, 2025), the U.S. Supreme Court determined the Clean Water Act only authorizes a State to regulate the level of pollutants in a discharge by use of scientifically defensible effluent limits, rather than to require the permittee meet water quality standards protecting the receiving water itself. It remains to be seen if using ambient water quality factors (like the EPA Criteria) to establish effluent limits is allowed.

SCMC COMMENT NO. 2: DES LACKS AUTHORITY AT THIS TIME TO INCORPORATE THE EPA CRITERION INTO STATE REGULATIONS SIMPLY BY REFERENCE

Proposed WQS published by EPA are not enforceable in South Carolina absent certain studies and assessments in accordance with State law. DES may not simply incorporate the EPA Criteria by reference.

The Clean Water Act (CWA), 33 U.S.C.A. §§ 1251 to 1388, requires each state promulgate WQS sufficient "to restore and maintain the chemical, physical, and biological integrity of the nation's waters." 33 U.S.C.A. § 1251(a). Likewise, in South Carolina, the Supreme Court has found this requirement a minimum for Revised WQS enforced by DES (not EPA):

The CWA, thus, places the promulgation and implementation of water quality standards squarely within the jurisdiction of state law (citations omitted).

Western Carolina Regional Sewer Authority, et al. vs. South Carolina Department of Health and Environmental Control, et al., 1999 WL 1016064, p. 6 (S.C. Admin. Law Judge Div.).

EPA may periodically publish new and revised human health information on various pollutants to help states develop these numeric water quality criteria, but it is the state's responsibilities to determine if the new EPA Criteria are applicable or necessary for waters of a particular state. The periodic EPA Criteria are merely for information and are non-binding and non-regulatory guidance. As EPA put it at 80 Federal Register at 36987, Col. 3, "EPA's recommended criteria [to be considered by DES] do not substitute for the CWA or regulations, nor are they regulations themselves. *Id.*

Any decision to consider EPA Criteria may not succeed without DES assessment of effects on environment and economics and employment in the State. **"It is declared to be the public policy of the State to maintain reasonable standards of purity of the air and water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State,** the propagation and protection of terrestrial and marine flora and fauna, and the protection of physical property and other resources." S.C. Code Ann. 48-1-20. All regulatory standards to be considered by the State must demonstrate this policy is satisfied. S.C. Code Ann. 48-1-40.

Study of Effects on Waters of the State

EPA Criteria may not be promulgated into final regulations, because "proper study" of each human health EPA Criterion has not been completed by DES at this time. The PCA requires DES (not EPA or another agency) perform a proper study for each WQS and EPA Criteria incorporated into Regs. 61-68 before they may be adopted for streams or groundwater in this State: "In order to attain the objectives of this chapter, **[DES] after proper study ... shall adopt rules and regulations and classification standards.**" S.C. Code Ann. § 48-1-60 (emphasis added). The EPA Criteria are merely "technical information for states to consider"; they are not themselves "proper study" of how each EPA Criterion meets requirements of the PCA. 80 Federal Register at 36987, Col. 2 ("EPA's recommended criteria provide technical information for states to consider in adopting water quality standards"). "It is recognized, due to variable factors, **no single standard of quality and purity of the environment is applicable** to all ambient air, land, or waters of the State." S.C. Code Ann. 48-1-60 (emphasis added). Therefore, absent "proper study" specific to each EPA

Criterion, DES may not incorporate them into State regulations or "classification standards" applicable to waters of the State.

The PCA also states the DES studies must meet certain minimum criteria to comply with requirements of PCA, and there is no indication information within DES satisfies this requirement. "In adopting the classification of waters and the standards of purity and quality, consideration must be given [to the following for each individual pollutant for which a Revised WQS is considered]":

1. Health effects of the chemical on the waters of the State, given the size, depth, surface area, volume, direction, flow, gradient and temperature of each stream;
2. Suitability of the area for receiving the specific chemical pollutants;
3. Effects the pollutants may have on use of the specific streams.

S.C. Code Ann. 48-1-80 (emphasis added). The standards for water adopted pursuant to this chapter may prescribe:

1. The extent, if any, to which floating solids may be permitted in the water;
2. The extent to which suspended solids, colloids or a combination of solids with other substances suspended in water may be permitted;
3. The extent to which organisms of the coliform group (intestinal bacilli) or any other bacteriological organisms may be permitted in the water;
4. The extent of the oxygen which may be required in receiving waters; and
5. Such other physical, chemical or biological properties as may be necessary for the attainment of the objectives of this chapter.

S.C. Code Ann. 48-1-70. To the extent DES seeks to rely on EPA literature as sufficient grounds for EPA Criteria, requisite studies under the PCA S.C. Code Ann. § 48-1-80 were not performed by the State or EPA:

1. No studies of streams or areas around State waterbodies were conducted for each EPA Criterion prior to proposing adoption of the Revised WQS as printed by EPA in the Federal Register;
2. EPA simply "updated the human health criteria using externally peer-reviewed information sources", so no studies of streams or areas around other waterbodies in other states were performed, 80 Federal Register at 36989, Col. 1;
3. EPA developed the Revised WQS from unidentified "science documents" related to certain toxicity values and bioaccumulation, which are not included in the public notice, DES has not reviewed or questioned, and are not related to the factors required by PCA, §48-1-80(1) to (4); and
4. Generic information cited by EPA to develop the Revised WQS is limited to "scientific judgments," "health toxicity values," and "bioaccumulation factors," and as a result, no studies related to characteristics of waters of the State and effects of alleged toxicants were performed. 80 Federal Register 36987, Col.2.

EPA stated in a telephone conference in 2022, the Revised WQS are proposed merely for the State to determine if further research or studies are necessary for any or all the ninety-four (94) chemicals with revised criterion.

States have discretion to adopt criteria on a case-by-case basis, which differ from EPA's guidance. EPA's recommended Criterion are general in nature and based "solely on data and scientific judgments," but do not account for local and regional data nor "reflect consideration of economic impacts or technological feasibility." *Id.*

Study of Economic and Employment Impact

To be consistent with State law, Revised WQS must also consider impact of the EPA Criteria as revised on employment in the State.

To date, no economic or technological feasibility studies have been considered by DES or EPA in proposing the Revised WQS. 80 Federal Register at 36987, Col. 2. SCMC contends the stricter EPA Criteria impose significant costs for pollution control, outweighing proven benefits. Yet, DES may not rely on the monetary value of lives saved and illnesses prevented as the only factor in adopting EPA Criteria.

Under the PCA, all water classification regulations must be "consistent with ... maximum employment [and] industrial development of the State." S.C. Code Ann. § 48-1-20. In formulating regulations, "consideration shall be given to* * * encouraging the most appropriate use of the lands ... for ... industrial purposes [and] uses which have been made or may be made ... for industrial consumption. " S.C. Code Ann. § 48-1-80(2),(3). "[Revised WQS] criteria **do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations** in ambient water." 80 **Federal Register** 36987, Col. 2 (emphasis added). The PCA also provides that economic realities of increased treatment technologies shall be considered when new WQS and EPA Criteria are being considered. "**In adopting the classification of waters and the standards of purity and quality, consideration shall be given to: * * * * [t]he character of the district bordering such water** and its particular suitability for the particular uses and with a view to...**encouraging the most appropriate use of the lands bordering on such water for...agricultural, industrial...purposes; [and] uses which have been made, are being made, or may be made of such waters for...industrial consumption....**" S.C. Code Ann. 48-1-80(1)-(3) (emphasis added).

The State Administrative Procedures Act (APA) mandates the agency to determine "substantial economic impact" of the EPA Criteria on State industry through preparation of preliminary and final assessment reports. S.C. Code Ann. § 1-23-115(B). Since DES is not conducting separate analysis of the listed EPA Criteria, no DES evaluation of the economic and employment impacts has been or may be conducted. Given the EPA Criteria reduce acceptable discharge levels of the ninety-four chemical pollutants by 1,000 times and the regulated community subject to the regulation is that same industry protected by the PCA, the economic impact on industry is verifiable and must be accounted for prior to adopting the EPA Criteria.

It is not sufficient for the economic analysis to occur through a preliminary or final assessment at

the General Assembly. The PCA is quite specific. Regardless of an economic assessment under the APA, no regulation may adopt water standards, which themselves do not allow for continued use of waters of the State for industrial purposes. Restricting wastewater discharge levels by 1,000 times will do just that.

EPA states in the Federal Register Notice, its recommended criteria only provide information for "consider[ation] [by DES]..in adopting water quality standards." 80 Federal Register 36987, Col. 2. "EPA's recommended criteria do not substitute for the CWA or [State] regulations themselves ... [and] do not impose legally binding requirements." Id. at 36987, Col 1. Rather, a State must adopt water quality criteria protective of their designated uses. EPA Office of Water Office of Science and Technology, EPA 822-R-15-001, EPA Response to Scientific Views from the Public on Draft Updated National Recommended Water Quality Criteria for the Protection of Human Health, § 5.1.1, p. 34 (June 2015). "Criteria must be based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses" for each waterbody of a given state. Id.

Therefore, South Carolina must analyze the recommended criteria with respect to its own waters of the State and their applicable uses, including accounting for local or regional data prior to adopting any proposed numerical limit. The General Assembly provided funding and authority to perform these specific studies. S. C. Code Ann. §48-1-50(6), (20), (21).

EPA Criteria Must be Promulgated as Regulations based on State Law, Not EPA Criteria

Current EPA Criteria may not be incorporated into Regs. 61-68 and apply to WQS based exclusively on the authority to promulgate regulations under the Federal Clean Water Act. Water quality regulations must be "promulgated pursuant to authority of the [PCA]", S.C. Code Ann. R61-68.A.1, and the APA provides the procedures for proposing and adopting any State regulations, including WQS based on new EPA Criteria. S.C. Code Ann. §1-23-110 to 150,380. Accordingly, the WQS in South Carolina are a creation of State law, not Federal law, Western Carolina, 1999 WL 1016064, p. 30, and both the PCA and APA govern promulgation of Revised WQS into State law, Id. (APA is applicable) and Id. at pp. 5-6 (PCA is applicable).

COMMENT NO. 3: EPA METHODS ARE NOT CONSISTENT WITH STATE LAW

EPA Criterion being considered by DES are not intended to provide the type of protection for human health necessary to meet regulatory standards (alone) in South Carolina. As a result, DES may not rely on the EPA Criterion for human health values.

As part of the EPA notice of new EPA Criterion, EPA announced revisions are based on EPA's "methodology for deriving human health criteria in Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000) (EPA-822-B- 00-004, October 2000)." EPA updated its prior human health criteria using externally peer-reviewed information sources based almost exclusively on "theoretical risks". Derivation of Human Health Water Quality Criteria: Review of Key Scientific and Technical Assumptions and Approaches, p. F-1 (NCASI April 2017) ("NCASI Report").

DES should use state-specific science as required by the PCA to revise those EPA Criterion it does consider:

1. Health Protection Targets. The cancer risks used by EPA Criterion are 1.0×10^{-6} . South Carolina should use the cancer risks from exposure to water contaminants for the mean of the general population to recognize the science-based the link between risk and exposure.
2. Fish Consumption Rates. The EPA Criterion are based on a fish consumption rate of 22.0 grams per day (gpd) per person, which is an increase of 5.0 gpd of fish from 2000. However, the study assumes fish is consumed from marine or estuarine waters, not grocers or restaurants. Accordingly, DES should use only data representative of fish consumption by South Carolina residents from South Carolina water bodies, which will be substantially less than 22.0 gpd.
3. Relative Source Contribution. The relative source contribution (RSC) is that portion of contaminants received from sources other than fish consumption. EPA uses an RSC of 20 - 80 %; prior studies used the value of 100%; this may lower the EPA Criterion by as much as 5 times the 2000 levels. This assumption is not verifiable, and DES should reject it for actual data on RSCs.
4. Implicit Assumptions. EPA use of "implicit assumptions" cloud the reliability of the EPA Criterion. Examples include: (1) assuming all waters have a constant chemical concentration equal to the EPA Criterion; (2) no reduction of concentrations during cooking; (3) fish are consumed at the maximum level of contamination over a lifetime.

See, NCASI Report, pp. F-1 to F-3 (supporting data for each item is included in the document).

CLOSING

Because EPA Criteria severely restrict WQS and effluent limits in the State of South Carolina without required testing, EPA Criteria must not be incorporated by reference into South Carolina WQS.

Thank you for your consideration of these comments. If you have any questions, we would be happy to discuss. We look forward to participating in the 2026 Triennial Review process.

Sincerely,



Sara Hazzard
President and CEO
South Carolina Manufacturers and Commerce