

20 PROPOSED REGULATIONS

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. 4885
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-69. Classified Waters.

Preamble:

R.61-69 establishes the State's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department of Health and Environmental Control ("Department") proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. The Department also proposes stylistic changes for overall improvement of the text of the regulation. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department had a Notice of Drafting published in the February 22, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Amend 61.69.H. to correct the description for portions of Ashley River in Charleston and Dorchester Counties.

Amend 61-69.H. to correct the class for portions of Atlantic Intracoastal Waterway in Georgetown County.

Amend 61-69.H. to correct the description for portions of Bartons Branch in Georgetown and Williamsburg counties.

Amend 61-69.H. to remove Bear Creek from the list of classified waters. Bear Creek is currently listed as that portion of the creek in Oconee County from the State line to Lake Jocassee, however Lake Jocassee is impounded beyond the State line. Therefore, the listing should be removed.

Amend 61-69.H. to remove Bearcamp Creek from the list of classified waters. Bearcamp Creek is currently listed as that portion of the creek in Oconee County from the State line to Lake Jocassee, however Lake Jocassee is impounded beyond the State line. Therefore, the listing should be removed.

Amend 61-69.H. to correct the counties for portions of Black Creek in Chesterfield, Darlington, and Florence Counties.

Amend 61.69.H. to correct the name and counties for portions of Black Creek in Georgetown County.

Amend 61.69.H. to correct the county and description for portions of Black River in Georgetown County.

Amend 61-69.H. to add Boggy Swamp to the list of classified waters in Georgetown County. This portion of the river was previously listed as Sampit River.

Amend 61-69.H. to correct the description for portions of Buckhorn Creek in Greenville County.

Amend 61-69.H. to add Cane Creek to the list of classified waters in Pickens County. This creek was previously listed as Crane Creek.

Amend 61-69.H. to correct the description for portions of Carrick Creek in Pickens County.

Amend 61-69.H. to correct the name for portions of Chowan Creek in Beaufort County.

Amend 61-69.H. to correct the description for portions of Clark Creek in York County.

Amend 61-69.H. to correct the description for portions of Corbin Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Cox Camp Creek in Greenville County.

Amend 61-69.H. to correct the name for portions of Crabhaul Creek in Georgetown County.

Amend 61-69.H. to remove Crane Creek and replace it with Cane Creek in Pickens County.

Amend 61-69.H. to correct the name for portions of Devils Fork Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Edisto River (Main Stem) in Orangeburg, Bamberg, Dorchester, Colleton, and Charleston Counties.

Amend 61-69.H. to add Filbin Creek to the list of classified waters in Charleston County.

Amend 61-69.H. to correct the name and description for portions of Grambling Creek in Orangeburg County.

Amend 61-69.H. to add Great Pee Dee River to the list of classified waters in Chesterfield, Dillon, Darlington, Florence, Marion, Marlboro, Williamsburg, and Georgetown Counties. This river was previously listed as Pee Dee River.

Amend 61-69.H. to correct the description for portions of Howard Creek in Oconee County.

Amend 61-69.H. to correct the name, class, and description for portions of Johnsons Swamp in Georgetown and Williamsburg Counties.

Amend 61-69.H. to correct the name and county for portions of Lake Swamp in Florence County.

Amend 61-69.H. to correct the description for portions of Limber Pole Creek in Oconee County.

Amend 61-69.H. to correct the name for Little Lynches River in Kershaw and Lancaster Counties.

Amend 61-69.H. to correct the name and county for portions of Lynches Lake in Florence County.

Amend 61-69.H. to correct the description for portions of Milton Creek in Charleston County.

Amend 61-69.H. to correct the name for portions of Mud Creek in Charleston County.

Amend 61-69.H. to correct the name, county, class, and description for portions of Mud River in Jasper County.

Amend 61-69.H. to correct the description for portions of Muddy Creek in Florence and Williamsburg Counties.

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Amend 61-69.H. to remove Pee Dee River and replace it with Great Pee Dee River in Chesterfield, Dillon, Darlington, Florence, Marion, Marlboro, Williamsburg, and Georgetown Counties.

Amend 61-69.H. to remove Rock Branch and replace it with Rocky Branch in Greenville County.

Amend 61-69.H. to correct the description for portions of Rocky Bluff Swamp in Lee and Sumter Counties.

Amend 61-69.H. to correct the name for portions of Running Lake Creek in Richland County.

Amend 61-69.H. to correct the name and description for portions of Russell Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of Salkehatchie River in Allendale, Bamberg, Barnwell, Colleton, and Hampton Counties.

Amend 61-69.H. to remove portions of Salkehatchie River in Beaufort, Colleton, and Hampton Counties. This portion of the river is already correctly listed as Combahee River. Therefore, this listing should be removed.

Amend 61-69.H. to remove portions of Sampit River in Georgetown County. This portion of the river is Boggy Swamp. Therefore, this listing should be removed.

Amend 61-69.H. to correct the description for portions of the Sampit River in Georgetown County.

Amend 61-69.H. to correct the description for portions of Sampson Island Creek in Colleton County.

Amend 61-69.H. to correct the description for portions of Sand Creek in Laurens County.

Amend 61-69.H. to correct the county for portions of Savannah River in Anderson County.

Amend 61-69.H. to correct the description for portions of Sixty Bass Creek in Georgetown County.

Amend 61-69.H. to correct the county for portions of South Pacolet River in Greenville County.

Amend 61-69.H. to correct the name, class, and description for portions of Summerhouse Branch in Georgetown and Williamsburg Counties.

Amend 61-69.H. to correct the description for portions of Swaford Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Tom Point Creek in Charleston County.

Amend 61-69.H. to correct the name and description for portions of Toms Creek in Lexington County.

Amend 61-69.H. to correct the description for portions of Toogoodoo Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of White Oak Creek in Marion County.

Amend 61-69.H. to correct the description for portions of Whooping Island Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of Willow Swamp in Orangeburg County.

Amend 61-69.H. to correct the county and description for portions of Zekial Creek in Cherokee and Spartanburg Counties.

Amend 61-69.H. to remove each instance of mg/l and replace it with mg/L.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Andrew Edwards, Water Quality Standards Coordinator of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 23, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 7, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

Preliminary Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments.

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: 61-69, Classified Waters.

Purpose: Proposed amendment of R.61-69 will clarify, strengthen, and improve the overall quality of the existing regulation and make appropriate revisions of the State’s water quality standards in accordance with 33 U.S.C. Section 303(c)(2)(B) of the federal Clean Water Act (“CWA”).

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

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to this proposed amendment. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

R.61-69 establishes the State’s site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department’s proposed amendments to R.61-69 clarify and correct, as needed, waterbody names, counties, classes, and descriptions.

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DETERMINATION OF COSTS AND BENEFITS:

Existing staff and resources will be utilized to implement these amendments to the regulation. No anticipated additional cost will be incurred by the State if the revisions are implemented, and no additional State funding is being requested.

Overall cost impact to the State's political subdivisions or the regulated community as a whole is not likely to be significant. Existing standards would have incurred similar cost. Furthermore, the standards required under the amendments will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

The uncertainties associated with the estimation of benefits and burdens are minimal.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizens of the State. The proposed amendments to R.61-69 seek to correct and clarify portions of the list of classified waters in order to provide citizens a more accurate representation of the waters of the State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Failure by the Department to incorporate appropriate revisions to the list of classified waters in R.61-69 will allow an inaccurate representation of the State's waters to persist. This list is the only repository of the State's site-specific water quality standards and is used as the basis for National Pollutant Discharge Elimination System ("NPDES") permit decisions. If not corrected, the inaccuracies in the existing regulation may lead to unnecessary contamination of the waters of the State with detrimental effects on the health of flora and fauna, as well as the citizens of South Carolina.

Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

R.61-69 establishes the State's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions.

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