
61-9.600

Viability Requirements

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600.1. Purpose and Applicability.

(a) Purpose. This regulation establishes rules to ensure that entities owning wastewater systems demonstrate the technical, managerial, and financial means to comply with the regulations as a prerequisite for receiving a wastewater discharge permit (e.g., NPDES), including permit transfers.

(b) Authority and Applicability. This Part (R.61-9.600) applies to owners of wastewater systems, including facilities to collect, transport, treat and discharge wastewater and wastewater residuals, excluding permits under R.61-56 and service connections as defined by R.61-67. This Part (R.61-9.600) does not apply to a single business or industrial site that owns a wastewater system serving only its own operations or property, excluding residences. Provisions under this Part (R.61-9.600) may be waived by the Department to remedy existing public health or environmental problems. This rule applies on the date published in the State Register.

600.2. Definitions.

The definitions contained in R.61-9.122, apply to this regulation. Terms not defined in this section or sections referenced previously have the meaning given by the PCA.

“Business plan” means, in the context of R.61-9.600, a document consisting of three sub-plans, a Facilities Plan, a Management Plan, and a Financing Plan, as applicable, which shows how a wastewater system (or group of systems under a common owner) will be self-sustaining and that the owner has the commitment and capability (financial, managerial, and technical capability) to consistently comply with applicable laws and regulations governing wastewater collection, treatment, and disposal.

“Department” means the South Carolina Department of Health and Environmental Control.

“Viable wastewater system owner” means an owner who has demonstrated the financial, technical, and managerial capability to handle all aspects of operation, maintenance, and replacement of wastewater systems to reasonably assure compliance with Department laws and regulations.

“Wastewater system” means facilities for the collection, transportation, treatment, and disposal of wastewater.

600.3. General Requirements.

(a) The system owner or proposed owner is responsible for demonstrating viability in accordance with this Part.

(b) Without a demonstration that the proposed owner is or will be a viable wastewater system owner, or unless otherwise exempted, the Department may deny permit requests under R.61-67 or R.61-9. The Department may take necessary actions to bring an existing owner to the point of being a viable wastewater system owner, including requiring changes that will provide for proper operation, maintenance, and replacement of facilities, and to be in compliance with applicable statutes and regulations concerning sewerage systems.

(c) In determining whether a wastewater system owner is viable, the Department may consider information regarding how the owner has demonstrated viability of any existing operations in the state, information provided in a business plan, plans for setting sewer service rates in accordance with rules of the S.C. Public Service Commission (where applicable), and other relevant information. If an owner owns

other wastewater systems, the Department may consider the overall resources of the owner such that an individual wastewater system does not have to be financially self-sustaining.

600.4. New Wastewater Systems and Transfers of Systems.

(a) Prior to issuance of a wastewater permit under R.61-9 or R.61-67, including a transfer of an NPDES or Land Application permit, the proposed owner must demonstrate viability per the definition of “Viable wastewater system owner.”

(b) If the proposed wastewater system owner does not own other wastewater systems in South Carolina, the demonstration must include the submission of a business plan which demonstrates how the system will be self-sustaining and that the owner has the commitment and capability (financial, managerial, and technical capability) to consistently comply with applicable laws and regulations governing wastewater collection, treatment, and disposal.

(c) If the proposed wastewater system is connecting to an existing system where the ownership will be the same (proposed and existing system having the same owner), this demonstration is not required.

(d) If the proposed wastewater system owner already owns other wastewater systems in South Carolina, the Department may consider financial and managerial information related to the owner’s other wastewater system operations in the state.

600.5. Existing Systems.

If an existing wastewater system has operation, maintenance or compliance problems warranting a formal enforcement action, the Department may require, in an order, the owner to submit a business plan to facilitate viability by identifying the elements necessary to perform proper operation, maintenance, and improvements and to stay in compliance (or come into compliance) with applicable regulatory requirements.