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R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected; general rules and water quality criteria to protect classified and existing water uses; and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the federal CWA requires South Carolina's water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency's updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA. The Department proposes amending R.61-68 to adopt these criteria the Department deemed necessary to comply with federal regulatory recommendations and revisions. The Department proposes to adopt a revised standard for aquatic life ambient water quality criteria for cadmium, a revised recreational water quality criteria for enterococci, a standard for aquatic life ambient water quality criteria for carbaryl, and a standard for human health recreational ambient water quality criteria for microcystins and cylindrospermopsin to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

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. 4888

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

61-9. Water Pollution Control Permits.

Preamble:

The Department of Health and Environmental Control ("Department") proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules promulgated by the United States Environmental Protection Agency ("EPA") required for State program implementation. These federal regulations include National Pollutant Discharge Elimination System ("NPDES") Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use "sufficiently sensitive" analytical test methods, requires the electronic reporting and sharing of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Amend 61-9 Table of Contents to add 61-9.3 and 61-9.127.

Add 61-9.3 in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.2 to correct a typographical error in the definition of "Discharge of a pollutant."

Amend 61-9.122.2 to add, in alphabetical order, definitions for “Pesticide discharges” and “Pesticide residue” in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(a) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(e) in accordance with NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting.

Amend 61-9.122.21(f) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.21(g)(7)(ix) in accordance with NPDES Applications and Program Updates.

Amend the following sections to add an electronic mail requirement in accordance with NPDES Applications and Program Updates:

- 61-9.122.21(j)(1)(ii)
- 61-9.122.21(j)(1)(viii)(D)(2)
- 61-9.122.21(j)(1)(viii)(D)(3)
- 61-9.122.21(j)(9)
- 61-9.122.21(q)(2)(i)
- 61-9.122.21(q)(8)(vi)
- 61-9.122.21(q)(9)(iii)(D)
- 61-9.122.21(q)(9)(iii)(E)
- 61-9.122.21(q)(9)(iv)(A)
- 61-9.122.21(q)(10)(ii)(A)
- 61-9.122.21(q)(10)(iii)(K)(1)
- 61-9.122.21(q)(11)(ii)(A)
- 61-9.122.21(q)(12)(i)
- 61-9.122.21(q)(13)

Add 61-9.122.21(j)(1)(ix) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(4)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(5)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(6)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(k)(5)(vi) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.22(e) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.26(b)(15)(i)(C) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.26(g)(1)(iii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.28(b)(2)(i) and (ii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.34(g)(3) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(l)(4)(i) in accordance with NPDES Electronic Reporting Rule.

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Amend 61-9.122.41(l)(6)(i) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(l)(7) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.41(l)(9) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(m)(3)(i) and (ii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(c) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(e)(4) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(e)(4)(vi) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.43(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.44(i)(1) to correct a typographical error.

Amend 61-9.122.44(i)(1)(iv) in accordance with NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting.

Amend 61-9.122.44(i)(2) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.44(k)(4) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.48(c) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.63(i) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.64(c) in accordance with NPDES Electronic Reporting Rule.

Add and reserve 61-9.124.10(c)(2)(iii) in accordance with NPDES Applications and Program Updates.

Add 61-9.124.10(c)(2)(iv) in accordance with NPDES Applications and Program Updates.

Amend 61-9.125.3(a)(1)(ii) in accordance with NPDES Applications and Program Updates.

Add 61-9.127 in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.403.12(e)(1) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.403.12(h) and (i) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.18(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.28(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.48(a) in accordance with NPDES Electronic Reporting Rule.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Andrew Edwards 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 amendments 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:

The Department expects a significant reduction in cost to the State or its political subdivisions as a result of 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: 61-9, Water Pollution Control Permits.

Purpose: Proposed amendments of R.61-9 to adopt portions of three federal Clean Water Act rules issued by the United States Environmental Protection Agency (“EPA”) required for State program implementation.

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 these proposed amendments. 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 amendments and any associated information.

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

The Department proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules issued by the EPA. Adoption of these federal regulations is necessary for State program implementation. The regulations include NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use “sufficiently sensitive” analytical test methods, requires the electronic reporting and sharing of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting.

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DETERMINATION OF COSTS AND BENEFITS:

The proposed amendments will save time and resources for the State and regulated permittees by transitioning from paper to electronic reporting. The amendments will also increase data accuracy, which will result in improved compliance to provide better protection of the waters of the State.

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.61-9 seek to maintain compliance with federal law, which promotes the protection of water quality and public health.

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

Failure by the Department to incorporate the required revisions in R.61-9 would result in the established NPDES Program to maintain inaccurate representations of the water quality of the State's waters.

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. 4884

COMMISSION ON INDIGENT DEFENSE

CHAPTER 70

Statutory Authority: 1976 Code Sections 17-3-10, 17-3-20, 17-3-45, and 17-3-310

70-10. Indigent Screening Process. (New)

Preamble:

The Commission on Indigent Defense proposes to promulgate R.70-10 addressing a uniform process to be followed by the current (as of July 1, 2019) screening entities in Aiken, Allendale, Chester, Clarendon, Florence, Horry, Laurens, Marlboro, Richland and Spartanburg Counties to conduct a financial review of an applicant's resources to determine if he/she is indigent and financially unable to employ counsel.

Section 17-3-310 requires the Commission to develop rules, policies, procedures, regulations, and standards regarding the criteria and process to be used in the determination of indigency and the qualifications for services for indigent legal representation.

Notice of Drafting for the proposed regulation was published in the *State Register* on June 28, 2019.

Section-by-Section Discussion

70-10. Added to provide a uniform process for screening for indigent defense services.