

***Decision Document of the United States Environmental Protection Agency
Review of Amendments to South Carolina’s
Water Quality Regulations 61-68 Water Classifications & Standards
and 61-69 Classified Waters Under Section 303(c) of the Clean Water Act***

South Carolina transmitted revisions to its water quality standards (WQS) to the Environmental Protection Agency by letter dated September 27, 2023. As described more fully below, the EPA has reviewed and is approving the revisions pursuant to section 303(c) of the Clean Water Act (CWA or Act). The EPA Region 4 concluded that the revisions addressed by today’s action are not subject to consultation pursuant to section 7 of the Endangered Species Act (ESA). Therefore, no biological evaluation or further consultation with the United States Fish and Wildlife Service or the National Marine Fisheries Service is needed.

Part I – Overview of State and Federal Information

Background

This document summarizes the EPA’s review of the revisions to the South Carolina Regulations R.61-68 *Water Classifications & Standards* and R.61-69 *Classified Waters* adopted by the South Carolina Department of Health and Environmental Control (SCDHEC or “Department”). These revisions were adopted as a result of South Carolina’s triennial review of WQS, as required by section 303(c) of the CWA. The Department submitted the WQS revisions electronically by letter dated September 27, 2023, from Andrew J. Edwards, PE, Water Quality Standards Coordinator, SCDHEC, to Jeaneanne Gettle, Acting Regional Administrator, EPA Region 4. The submittal to the EPA was accompanied by certification from W. Marshall Taylor, Jr., the General Counsel for the Department, that the WQS revisions were duly adopted pursuant to the law of South Carolina.

SCDHEC initiated a triennial review of its WQS on February 25, 2022, with a Notice of Drafting published in the *State Register*. The Department received five sets of comments on the proposed standards. SCDHEC met with stakeholders to discuss the Notice of Drafting and received additional input on April 19, 2022, and May 24, 2022. The South Carolina Board of Health and Environmental Control approved the Notice of Proposed Regulation on August 11, 2022, which was then published in the August 26, 2022 *State Register*. A final stakeholder meeting was held on September 20, 2022, to receive comment on the Notice of Proposed Regulation. Substantive changes were made based on public comment. SCDHEC held a final public hearing on November 10, 2022.

The proposed amendments were referred to both the state’s House Natural Resources and Environmental Affairs Committee and the state’s Senate Agriculture and Natural Resources Committee at the beginning of the legislative session. Neither of these two committees took action on the revisions R.61-68 and R.61-69. Therefore, revisions to R.61-68 *Water Classifications & Standards* and R.61-69 *Classified Waters* became effective for purposes of state law and were published as final in the May 26, 2023 *State Register*. The EPA reviewed the state rulemaking process with respect to public participation and finds that South Carolina complied with public participation requirements at 40 C.F.R. section 131.20(b).

Clean Water Act and Regulatory Requirements

Under section 303(c) of the CWA and federal implementing regulations at 40 C.F.R. part 131, states and authorized tribes (states) have the primary responsibility for reviewing, establishing, and revising WQS, which consist of the designated uses of a waterbody or waterbody segment, the water quality criteria necessary to protect those designated uses, and an antidegradation policy. Section 303(c) of the CWA also requires states to establish WQS and to submit any new or revised standards to the EPA for review and approval or disapproval. When the EPA approves a state or tribal WQS, it becomes the applicable WQS for purposes of the CWA.

40 C.F.R. part 131 was amended to require states to provide an explanation if not adopting new or revised criteria for parameters for which the EPA has published new or updated CWA section 304(a) criteria recommendations (40 C.F.R. section 131.20(a)). This change was made to foster meaningful and transparent involvement of the public and intergovernmental coordination with local, state, federal, and tribal entities in light of recent science provided by the EPA through its criteria recommendations. South Carolina has provided rationale for the criteria adopted during this triennial review as well as explanations regarding its evaluation of criteria it did not adopt, including human health water quality criteria based on the EPA's 2015 updates, and criteria for ammonia, selenium, and aluminum. The EPA does not approve or disapprove this explanation but notes that South Carolina has provided it according to the new requirement.

Endangered Species Act Requirements

In addition to the EPA's review under section 303 of the CWA, section 7(a)(2) of the ESA requires federal agencies, in consultation with the United States Fish and Wildlife Service and National Marine Fisheries Service, to ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species. The EPA has concluded that it had no discretion to consult on provisions of the approved WQS because they were derived to protect human health¹ or related to antidegradation, and the EPA has no discretion to revise an otherwise approvable human health criterion or antidegradation provision which meets the minimum regulatory requirements to benefit listed species.

The EPA also reviewed revisions to the use classifications in R.61-69 *Classified Waters*. The revisions, as detailed below, were updates to more accurately reflect the name or description of waterbodies or to reclassify waterbodies as Outstanding Resource Waters. The EPA has concluded that it had no discretion to consult on revisions to the use classifications revisions in R.61-69 because they are revisions to antidegradation designations, and the Agency lacks relevant discretion to implement measures that would benefit listed species in connection with antidegradation policy approvals².

¹ Recommended Approaches to Improve Endangered Species Act Consultations on Approvals of State & Tribal Water Quality Standards, Memorandum (1/16/09).

² Antidegradation Policy Approvals and Endangered Species Act Consultations, Memorandum from Geoffrey Grubbs (1/27/05)

<https://www.epa.gov/wqs-tech/reference-library-water-quality-standards-policy-and-guidance-documents>

Government to Government Consultation

South Carolina's submittal of their new or revised WQS to the EPA for review and approval or disapproval triggered the Agency's mandatory duty under section 303(c) of the CWA to review these WQS amendments and to take action to approve or disapprove them. The state's Regulations, R.61-68 and R.61-69, and the EPA's decision on them will apply to waters in the state and will also apply to waters on the Catawba Indian Nation lands. Therefore, tribal resources could be impacted by this action. As such, the EPA identified and offered government to government consultation to the Catawba Indian Nation tribal government to ensure that tribal input was considered prior to final agency action on these WQS amendments in accordance with the EPA Policy on Consultation and Coordination with Indian Tribes (Policy) (May 4, 2011).

By letter of October 5, 2023, the EPA formally offered consultation to the Catawba Indian Nation. The consultation and coordination process were conducted in accordance with the EPA Policy. The process ended on November 4, 2023. The Catawba did not choose to consult on South Carolina's amended WQS.

Summary of EPA Approval Actions

Revisions to the state's WQS regulations, found in Attachment A and Attachment B to this document, are shown underlined (underlined) below, while deletions to the regulations are shown stricken (~~stricken~~). Parts II and III include the EPA's longer analysis text for clarity regarding certain provisions, intended to provide a more detailed discussion due to the length of text being changed and/or an explanation of the change needed for future reference. Most of the revisions in R. 61-68 and R. 61-69 are the result of the Department's editorial or stylistic comments. These types of changes are reflected in detail in Attachments A and B. Where the EPA has determined that the South Carolina rule revisions are new or revised WQS, the EPA has reviewed and acted on these revisions pursuant to section 303(c) of the CWA. The EPA approves these editorial revisions in Attachments A and B within R. 61-68 and R. 61-69 as being consistent with the CWA and 40 C.F.R. part 131. The EPA notes however, that its approval of these changes does not re-open the EPA's prior approval of any underlying WQS. In some instances, the EPA determined that the South Carolina rule revisions in Attachment A and Attachment B were not new or revised WQS and therefore took no action on those provisions. The EPA approves all of the revisions in R. 61-68 and R. 61-69, except those which it considers to not be new or revised WQS.

Part II - EPA's Analysis of Revisions to R. 61-68 Water Classifications & Standards

Throughout R.61-68 *Water Classifications & Standards*, revisions were made that the state referred to as "stylistic." The state indicated that these were for overall improvement of the text of the regulation. The EPA has reviewed these revisions to ensure that they do not alter the meaning or intent of the previously approved corresponding provisions. A table of the revisions identified as stylistic follows:

Citation/Location	Revision	Purpose of Revision
Multiple uses of mg/l or ml and ug/l or µg/L throughout the WQS	The abbreviation mg/l was changed to mg/L The abbreviation ml was changed to mL The abbreviation ug/l was changed to µg/L	SCDHEC’s WQS have a mix of the two acceptable abbreviations for milligram per liter (mg/l or mg/L) and for micrograms per liter (ug/l or µg/L). For consistency, when WQS are updated, abbreviations are changed to mg/L or µg/L. Similarly, the abbreviation for milliliter will be changed from ml to mL for consistency. These changes do not change the value as the units of measurement remains the same.
Multiple instances throughout the WQS	Amending numerical values to include both text and number format. For example: four (4)	The revisions do not alter the meaning of these provisions.
Multiple uses of exceedence throughout the WQS	exceedence exceedance	The spelling of exceedance was corrected which does not alter the meaning of these provisions.
Multiple instances throughout the WQS	Amend state statute, code and rule references	The revisions do not alter the meaning of these provisions.
R.61-68.B. Definitions	Adding definitions for the “Department” and “EPA” and subsequent renumbering of definitions following these two additions.	Renumbering the definitions for “Department” and “EPA” does not change the meaning of the WQS. “Department” and “EPA” are used throughout R.61-68 prior to addition of definitions which do not alter the meaning of these provisions.
R.61-68.B. Definitions	<i>...disease-causing agents which, <u>upon</u> discharge and upon exposure,...</i>	Removing redundant phrasing. This revision does not alter the meaning of this provision.
R.61-68.C. Applicability of Standards	<i>NPDES Permit conditions shall be based on a critical condition analysis (e.g., critical flow, temperature or pH, or a combination of factors which would represent a critical conditions). Regarding ambient water temperature as a</i>	Removing redundant phrasing by correcting grammar and punctuation. This revision does not alter the meaning of this provision.

	component of a critical condition analysis, t The Department may consider less stringent limits during November through February based on a critical ambient water temperature during November through February.	
R. 61-68.E.	Correcting a description from 17 items to 19 items. ...the Department adopts the following general standards in items 3- 17 <u>19</u> for all waters of South Carolina.	Updates item list in provision to include previously adopted or approved items 18 and 19 in section E. General Rules and Standards Applicable to All Waters. This revision does not alter the meaning of this provision.
R. 61-68.E.	Correcting taxonomic classifications to italicized font	The revisions do not alter the meaning of these provisions.
R. 61-68.E.	...Further, written notification must be provided to the Department (Bureau of Water) within five (5) <u>calendar</u> days... ...applicable human health <u>criteria</u> (organism consumption only), aquatic life <u>criteria</u> , or organoleptic... ...shall not cause criteria for human health <u>criteria</u> to be exceeded... ...Except as provided herein, <u>where</u> the Department... ...The facility does not significantly concentrate or contribute additional turbidity to the discharged water; <u>or</u>	The addition of "calendar" does not alter the meaning of this provision. The removal and addition of "criteria" does not alter the meaning of these provisions. The addition of "where" corrects the grammar and does not alter the meaning of this provision. The addition of 'or' confirms that only one provision need be met. The revisions do not alter the meaning of these provisions.

Appendix: Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health	<i>The appendix also contains three four attachments</i>	Correcting a reference from three attachments to four attachments. Addition of attachment four was a previously adopted or approved revision. This revision does not alter the meaning of this provision.
Appendix Attachment 4 Calculation of the Sample Specific Freshwater Acute and Chronic Criterion for Metals	<i>10⁻⁶ = Units conversion factor to express CCC CMC (total recoverable adjusted) in µg/L</i>	Correcting a typo in the CMC (dissolved) equation by replacing CCC with CMC which does not alter the meaning of the provision.

The EPA approves these editorial revisions as being consistent with the CWA and the EPA’s implementing regulations. Such changes include simplifying and/or removing redundant phrasing, grammar and punctuation, spelling, relettering, renumbering, correcting typographical errors, and improving consistency in units of measurement which are considered minor revisions. The EPA notes, however, that its approval of these editorial changes does not re-open the EPA’s prior approval of the underlying WQS.

Antidegradation

R. 61-68.D. Antidegradation Rules subparagraphs D.2.a. and D.2.b. were reorganized to clarify the requirements of an alternatives analysis as follows:

2. Where surface water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the Department finds, after intergovernmental coordination and public participation, that allowing lower water quality is necessary to important economic or social development in the areas where the waters are located. In allowing such lower water quality, water quality adequate to fully protect existing and classified uses shall be maintained. The highest statutory and regulatory requirements for all new and existing point sources shall be achieved and all cost-effective and reasonable best management practices for nonpoint source control shall be achieved within the State’s statutory authority and otherwise encouraged. In order to fulfill these goals, the Department shall consider (a) ~~and (b)~~ through (e) below when evaluating any proposed expansion or new discharge to waters of the State that will lower water quality to a measurable effect. This includes, but is not limited to, the new or increased loading of any pollutant or pollutant parameter in the effluent regardless of whether the discharge flow changes.

a. An alternatives analysis, conducted by the applicant, must demonstrate to the Department that none of the following applicable alternatives that would minimize or eliminate the lowering of water quality are economically and technologically reasonable:

- (1) Water recycle or reuse;
- (2) Use of other discharge locations;
- (3) Connection to other wastewater treatment facilities;
- (4) Use of land application;
- (5) Product or raw material substitution; and
- (6) Any other treatment option or alternative.

~~b. After the alternatives analysis is completed, the Department shall evaluate whether a proposed discharge that will result in the lowering of water quality of a waterbody, and for which there are no economically or technologically reasonable alternatives, is necessary for important economic or social development. For this to be accomplished, several economic and social factors must be considered. If an evaluation of the economic and social factors reveals that affordable treatment options that, combined with any alternatives, would prevent the need for the lowering of water quality, the Department shall deny the request. Conformance of the proposed discharge with the applicable '208 Areawide Water Quality Management Plans may demonstrate importance to economic and social development as well as intergovernmental coordination and public participation. Activities requiring permits or certification by the Department shall provide for public participation through the Department's existing public notification processes. Economic and social factors to be considered may include the following:~~

- ~~(1) Employment (increases, maintenance, or avoidance of reduction);~~
- ~~(2) Increased industrial production;~~
- ~~(3) Improved community tax base;~~
- ~~(4) Improved housing; and/or~~
- ~~(5) Correction of an environmental or public health problem.~~

b. If an evaluation of the alternatives analysis reveals that economically and technologically reasonable treatment options, combined with any alternatives, would prevent the need for the lowering of water quality, the Department shall deny the request.

c. If there are no economically and technologically reasonable alternatives to a proposed discharge that will result in the lowering of water quality of a waterbody, the Department shall evaluate whether the proposed discharge is necessary for important economic or social development and may deny the request based upon this evaluation. For purposes of this evaluation, several economic and social factors may be considered, including, but not limited to, the following:

(1) Employment (increases, maintenance, or avoidance of reduction);

(2) Increased industrial production;

(3) Improved community tax base;

(4) Improved housing; and/or

(5) Correction of an environmental or public health problem.

d. Conformance of the proposed discharge with the applicable 208 Areawide Water Quality Management Plans may demonstrate importance to economic and social development as well as intergovernmental coordination and public participation.

e. Activities requiring permits or certification by the Department shall provide for public participation through the Department's existing public notification processes.

This revision to the organization of the antidegradation rules does not change the requirements of an alternatives analysis and does not change the meaning of this provision. The EPA approves this revision as being consistent with the CWA and 40 C.F.R. part 131. The EPA notes, however, that its approval of these editorial changes does not re-open the EPA's prior approval of the underlying WQS.

E. Coli, Enterococci, and Fecal Coliform

Two provisions relating to enterococci, E. coli, and fecal coliform were modified. The first, R.61-68.E.15(d)(6) was amended as follows:

(6) The assessment of enterococci and E. coli for purposes of Section 303(d) listing determinations for recreational uses shall be based on either the geometric mean with an allowable ten percent³ (10%) exceedance, where sufficient data exists to calculate a geometric mean. ~~In the absence of sufficient data to calculate a geometric mean, the assessment shall be based on,~~ or the single sample maximum with an allowable ten percent⁴ (10%) exceedance.

After review of this new provision, the EPA has concluded that it is not a new or revised WQS and is therefore taking no action on this provision. This provision does not establish or change a level of protection related to the magnitude, duration, or frequency of water quality criteria nor establish designated uses or antidegradation requirements. In its submission, SCDHEC states that this provision was revised to clarify the existing bacteria assessment methodology to add an allowable 10% exceedance to the single sample maximum for the purposes of section 303(d) listing determinations. Pursuant to section 303(c) of the CWA, the EPA is not required to act on provisions that are not new or revised WQS. This additional language is outside the scope of CWA section 303(c). While this provision is not reviewed by EPA as a new or revised WQS, it may be considered by the EPA in reviewing the lists

³ Previously noted as an approved editorial change.

⁴ Previously noted as an approved editorial change.

of impaired waters submitted by the state under section 303(d) of the CWA. The decision to not review this provision in no way confers agreement with the use of this provision for identification of impaired waters under sections 303(d) and 305(b) of the CWA.

The second modified provision, R.61-68.G. tables (9) through (13) were amended as follows (the entire table is not included here, only the amended criteria):

9. *The standards below protect the uses of Natural and Put, Grow, and Take trout waters.*

Quality Standards for Trout Waters	
ITEMS	STANDARDS
<i>f. E. coli</i>	<i>Not to exceed a geometric mean of 126/100 mL based on at least four (4)⁵ samples collected from a given sampling site over a 30-day period, nor shall a single sample maximum <u>more than ten percent (10%) of the total samples during any 30-day period</u> exceed 349/100 mL.</i>

10. *Freshwaters are freshwaters suitable for primary and secondary contact recreation and as a source for drinking water supply after conventional treatment in accordance with the requirements of the Department. Suitable for fishing and the survival and propagation of a balanced indigenous aquatic community of fauna and flora. Suitable also for industrial and agricultural uses.*

Quality Standards for Freshwaters	
ITEMS	STANDARDS
<i>f. E. coli</i>	<i>Not to exceed a geometric mean of 126/100 mL based on at least four (4)⁶ samples collected from a given sampling site over a 30-day period, nor shall a single sample maximum <u>more than ten percent (10%) of the total samples during any 30-day period</u> exceed 349/100 mL.</i>

11. *Shellfish Harvesting Waters (SFH) are tidal saltwaters protected for shellfish harvesting and uses listed in Class SA and Class SB. Suitable for primary and secondary contact recreation, crabbing, and fishing. Also suitable for the survival and propagation of a balanced indigenous aquatic community of marine fauna and flora.*

⁵ Previously noted as an approved editorial change.

⁶ Previously noted as an approved editorial change.

Quality Standards for Shellfish Harvesting Waters	
ITEMS	STANDARDS
<i>f. Fecal coliform</i>	Not to exceed an MPN fecal coliform geometric mean of 14/100 mL ⁷ ; nor shall <u>more than ten percent (10%) of the samples exceed an MPN of 43/100 mL⁸.</u>
<i>g. Enterococci</i>	Not to exceed a geometric mean of 35/100 mL ⁹ based on at least four (4) ¹⁰ samples collected from a given sampling site over a 30-day period, nor shall a single sample maximum <u>more than ten percent (10%) the samples exceed a single sample maximum of 104/100 mL</u> during any 30-day period. Additionally, for beach monitoring and notification activities for CWA Section 406 only, samples shall not exceed a single sample maximum of 104/100 mL ¹¹ .

12. Class SA are tidal saltwaters suitable for primary and secondary contact recreation, crabbing, and fishing, except harvesting of clams, mussels, or oysters for market purposes or human consumption and uses listed in Class SB. Also suitable for the survival and propagation of a balanced indigenous aquatic community of marine fauna and flora.

Quality Standards for Class SA Waters	
ITEMS	STANDARDS
<i>f. Enterococci</i>	Not to exceed a geometric mean of 35/100 mL ¹² based on at least four (4) ¹³ samples collected from a given sampling site over a 30-day period, nor shall a single sample maximum <u>more than ten percent (10%) the samples exceed a single sample maximum of 104/100 mL</u> during any 30-day period. Additionally, for beach monitoring and notification activities for CWA Section 406 only, samples shall not exceed a single sample maximum of 104/100 mL ¹⁴ .

13. Class SB are tidal saltwaters suitable for primary and secondary contact recreation, crabbing, and fishing, except harvesting of clams, mussels, or oysters for market purposes or human consumption.

⁷ Previously noted as an approved editorial change.
⁸ Previously noted as an approved editorial change.
⁹ Previously noted as an approved editorial change.
¹⁰ Previously noted as an approved editorial change.
¹¹ Previously noted as an approved editorial change.
¹² Previously noted as an approved editorial change.
¹³ Previously noted as an approved editorial change.
¹⁴ Previously noted as an approved editorial change.

Also suitable for the survival and propagation of a balanced indigenous aquatic community of marine fauna and flora.

Quality Standards for Class SB Waters	
ITEMS	STANDARDS
<i>f. Enterococci</i>	<i>Not to exceed a geometric mean of 35/100 mL mL¹⁵ based on at least four (4)¹⁶ samples collected from a given sampling site over a 30-day period, nor shall a single sample maximum <u>more than ten percent (10%) the samples exceed a single sample maximum of 104/100 mL mL during any 30-day period.</u> Additionally, for beach monitoring and notification activities for CWA Section 406 only, samples shall not exceed a single sample maximum of 104/100 mL mL¹⁷.</i>

The second modified provision revises the bacteria criteria to add an allowable 10% exceedance to the single sample maximum for E. coli, enterococci, and fecal coliform. In the case of enterococci, SCDHEC maintained the single sample maximum of 104/100 mL from EPA’s 1986 bacteria criteria *Ambient Water Quality Criteria for Bacteria: 1986*¹⁸ (EPA). The EPA’s latest CWA section 304(a) guidance, *Recreational Water Quality Criteria*¹⁹ (EPA 2012) is 130/100 mL. In the case of E. coli, SCDHEC has a site specific value of 349/100 mL while the latest CWA section 304(a) recommendation is 410/100 mL. In the case of shellfish, the fecal coliform magnitude has always been consistent with the EPA’s recommendation but SCDHEC had it as a max and are now converting to 10% not to exceed, consistent with the EPA’s recommendation/regulatory frequency. Therefore, these criteria are consistent with the CWA and 40 C.F.R. part 131, and the revisions are approved by the EPA under CWA section 303(c).

Cadmium

South Carolina revised Appendix Priority Toxic Pollutants aquatic life criteria for cadmium as follows:

<i>Priority Pollutant</i>	<i>CAS Number</i>	<i>Freshwater Aquatic Life CMC</i>	<i>Freshwater Aquatic Life CCC</i>	<i>Saltwater Aquatic Life CMC</i>	<i>Saltwater Aquatic Life CCC</i>	<i>FR Cite/ Source</i>
<i>4. Cadmium</i>	<i>7440439</i>	<i>0.49 D, E, Y</i>	<i>0.256 D, E, Y</i>	<i>33 D, Y</i>	<i>7.98.0 D, Y</i>	<i>81FR19176 SDWA</i>

¹⁵ Previously noted as an approved editorial change.

¹⁶ Previously noted as an approved editorial change.

¹⁷ Previously noted as an approved editorial change.

¹⁸ U.S. Environmental Protection Agency. 1986. *Ambient Water Quality Criteria for Bacteria:1986*. Office of Water. Washington, DC. 440-5-84-002

¹⁹ U.S. Environmental Protection Agency. 2012. *Recreational Water Quality Criteria*. Office of Water. Washington, DC. 820-F-12-058

On April 22, 2021, EPA approved South Carolina’s cadmium criteria for the protection of freshwater and saltwater aquatic life. These criteria were based on EPA’s national CWA section 304(a) criteria recommendations (EPA 820-R-16-002), as of that date. Since EPA’s 2021 approval, South Carolina made two minor changes to how the State’s cadmium criteria are expressed in its Appendix: Water Quality Numeric Criteria For the Protection of Aquatic Life and Human Health that do not change the level of protection or substantively revise the previously approved criteria. Specifically, South Carolina adjusted the values for cadmium displayed in its Priority Toxic Pollutants table to reflect the total recoverable form, rather than dissolved cadmium, as the State had originally intended per the previously approved Footnote D. Due to rounding, this only results in minor adjustments to the chronic (CCC) values displayed for fresh and saltwaters. For freshwaters, these values displayed in the Priority Toxic Pollutants table are purely illustrative to show what the criteria would be at a hardness of 25 mg/L. The freshwater criteria themselves are the hardness-based equations in Footnote E and the associated inputs and conversion factors in Attachments 1 and 2, which are unchanged since EPA’s 2021 approval. For saltwaters, the CCC value that South Carolina originally displayed in the table was 7.94 ug/L (rounded to 7.9) and when expressed as the total recoverable form is now 7.99 ug/L (rounded to 8.0). South Carolina’s previously approved saltwater conversion factor to convert between total and dissolved forms of cadmium is 0.994, meaning that over 99% of cadmium in saltwaters is in the dissolved form and the values for total recoverable and dissolved cadmium are effectively equivalent. The EPA is approving these changes to the two cadmium CCC values in South Carolina’s Priority Toxic Pollutants table as consistent with the CWA and 40 C.F.R. part 131. Because the previously approved cadmium criteria remain substantively unchanged, EPA’s action on these two changes does not constitute a reevaluation of, or an action on, the underlying previously approved criteria.

Part III - EPA’s Analysis of Revisions to South Carolina Regulation 61-69 Classified Waters

The following revisions were made that the state referred to as “stylistic.” The EPA has reviewed these revisions to ensure that it does not alter the meaning or intent of the previously approved corresponding provisions.

Citation/Location	Revision	Purpose of Revision
R.61-69 Table of Contents	Amended title of section H	Updating the title does not change the meaning of the WQS.
R.61-69 A. Criteria for Classes	“...Standards ₂ or...”	Amended to add comma does not change the meaning of the WQS.
R.61-69 F. Notations for Site-Specific Standards and Previous Class	parentheses	Amended to correct spelling does not change the meaning of the WQS.

The EPA approves these editorial revisions as being consistent with the CWA and the EPA’s implementing regulations. The EPA notes, however, that its approval of this editorial change does not re-open the EPA’s prior approval of the underlying WQS.

During this triennial review, the Department undertook a detailed review of the use classifications for all waters identified in R.61-69. As documented in the submission, the Department made changes to the description of 63 use classifications for 61 waterbodies. These changes included revisions such as punctuation, grammatical changes, spelling (e.g. Lumbar River corrected to Lumber River), description (e.g., correcting the description of Baker Creek waterbody name to J. Strom Thurmond Lake from Lake Strom Thurmond), or location of the waterbody (e.g., correcting the road names or county abbreviations) to make it more accurately describe the waterbody. These revisions did not change the use designation of the waterbodies or change the level of protection for these waterbodies.

The Department is adding Bates Old River as an Outstanding Resource Water (ORW) to address the Congaree National Park expansion and is also reclassifying the waters of Sewee Bay and the portion of the Atlantic Intracoastal Waterway from Venning Creek to Morgan Creek as Outstanding Resource Waters.

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
<u>Atlantic Intracoastal Waterway</u>	<u>Chtn</u>	<u>ORW(SFH)</u>	<u>That portion of the waterway from its confluence with Venning Creek to its confluence with Morgan Creek</u>
<u>Atlantic Intracoastal Waterway</u>	<u>Chtn</u>	<u>SFH</u>	<u>That portion of the waterway from its confluence with Morgan Creek to the Ben Sawyer Bridge</u>
<u>Bates Old River</u>	<u>Rlnd</u>	<u>ORW(FW)</u>	<u>The entire river within the boundary of the Congaree National Park to the confluence with Congaree River</u>
<u>Running Lake</u>	<u>Rlnd</u>	<u>FW</u>	<u>That portion of the creek outside the boundary of the Congaree National Park</u>
<u>Running Lake</u>	<u>Rlnd</u>	<u>ORW(SFH)</u>	<u>The entire creek beginning at within the boundary of the Congaree National Park, including Big Lake and</u>

			<i>Little Lake to its confluence with Toms Creek</i>
<i>Sewee Bay</i>	<i>Chtn</i>	<u><i>ORW(SFH)</i></u>	<i>The entire bay</i>

Under South Carolina’s WQS, ORWs are freshwaters or saltwaters which constitute an outstanding recreational or ecological resource or those freshwaters suitable as a source for drinking water supply purposes with treatment levels specified by the Department. Section B of R. 61-68 defines outstanding recreational or ecological resource waters as waters which are of exceptional recreational or ecological importance or of unusual value. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources; or waters used for or having significant value for scientific research and study. South Carolina’s Antidegradation Policy in section D of R. 61-68 states that the existing water uses and the level of water quality necessary to protect these existing uses shall be maintained and protected regardless of the water classification and consistent with the policies below. This policy, which incorporates EPA’s antidegradation regulations, states that the water quality of outstanding resource waters designated as Class ONRW or Class ORW shall be maintained and protected through application of the standards for these classifications as described in section G of R. 61-68. The EPA approves these revisions as being consistent with the CWA and 40 C.F.R. part 131. These changes are approved by the EPA under CWA section 303(c).

Conclusion

Based on the reasons outlined above, the EPA concludes that the requirements of the CWA and 40 C.F.R. part 131 have been met for the new or revised WQS contained in South Carolina’s submission. Therefore, the new or revised criteria addressed in this Decision Document are approved by the EPA pursuant to section 303(c) of the CWA.

 12/12/2023
 Date

 Cesar Zapata, Acting Director
 Water Division