



VIA e-Mail

September 22, 2002

Mr. Andrew Edwards (EDWARDAJ@dhec.sc.gov)
Bureau of Water, Water Quality Standards Coordinator
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

**RE: 2022 Notice of Proposed Regulation R61-68, Water Classifications and Standards
Aluminum Aquatic Life Criteria**

Dear Mr. Edwards:

The South Carolina Chamber of Commerce (the Chamber) is a statewide organization that represents a broad cross-section of companies in South Carolina. Chamber member companies employ thousands of South Carolinians in high-paying jobs and lead the way on recycling, environmental protection, renewable energy generation and sustainable manufacturing operations. The Chamber promotes pro-job and pro-business policies at the state and federal level and bring together businesses across the state through coordinated strategies, training opportunities, and networking events. With a unified voice, we can make the biggest impact. Our goal is to create the best business climate, so businesses can be at their best. We pride ourselves in accomplishing this goal while balancing environmental protection required by state laws and regulations.

We have reviewed the State Register notice published August 26, 2022, regarding the proposed adoption of freshwater aquatic life criteria in Regulation 61-68. From our view, DHEC has not done an adequate review of EPA's criteria and seeks to adopt the federal criteria without any assessment of the validity of its use in South Carolina. At best, adoption is premature because DHEC has not collected ambient data to determine what impact it would have on state point and non-point source discharges. Additionally, DHEC has not evaluated how many new surface waters will become added to the list of impaired waters (i.e., 303(d) List pursuant to the federal Clean Water Act).

Prior to adopting the current freshwater e-coli bacteria standard, DHEC took the time to collect ambient water quality data to determine what was an appropriate standard to balance protection of classified and existing uses, without undo economic impact in South Carolina. This type of work should be done for aluminum. In stakeholder meetings earlier this year, DHEC said this type of information had not yet been developed. Georgia EPD has started their triennial and notes that they are collecting aluminum and DOC data to evaluate the recommended criteria calculator. EPD also notes that Georgia has naturally occurring aluminum in many streams, like South Carolina.

The State's Pollution Control Act requires a unique review of a new standard and must recognize "... safety and welfare of its citizens, maximum employment, the industrial development of the State..." (SECTION 48-1-40). To date, DHEC seeks to blindly adopt a federal criterion without a state-specific evaluation required in SECTION 48-1-60.

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Regarding the section in the notice entitled “Determination of Costs and Benefits”, the following is stated:

Existing Department 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 and regulated community is not likely to be significant. Existing standards would have incurred similar cost. Furthermore, standards required under the amendments will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

It is hard to agree with these statements because DHEC has not determined the increase workload on both the ambient monitoring program as well as the need to develop TMDLs. As we understand it, this criterion is a function of hardness and dissolved organic carbon, as well as the aluminum data itself. DHEC has not even estimated the impact to NPDES permittees (e.g., political subdivisions and regulated community). The potential impacts relate to traditional NPDES wastewater discharges as well as stormwater NPDES permits. Also, since drinking water systems (municipal and industrial) often use aluminum-based chemicals to clean surface waters for public consumption, it would be good to know the potential impacts on this sector since these systems also have NPDES permits.

Therefore, the Chamber requests that DHEC hold off adoption until:

- Ambient data for aluminum is reviewed,
- The impact on the ambient monitoring program and TMDL program is considered, and
- The impact on NPDES permits is evaluated.

Without this work, DHEC has no idea of the economic impact on state businesses and is unaware of the potential increased workload of its own staff. Without this review, South Carolina doesn’t really know both the benefits and impacts to the proposed regulation.

Finally, it is our understanding that DHEC used to have an aluminum stream standard, but many years ago removed the standard. Please summarize the basis for that action and why now is an appropriate time to add a standard back. For example, if many state waters are naturally high in aluminum, adoption of this standard may not aid in protection the classified and existing uses of our waters. To the extent that DHEC proceeds with the proposal, it would be good to have the text clarify that this is a freshwater standard.

Sincerely,



Bob Morgan
President & CEO
South Carolina Chamber of Commerce

cc: Jennifer Hughes, DHEC (HUGHESJR@dhec.sc.gov)