Andrew J. Edwards

From: Alicia Hutto <ahutto@hbaofsc.com>
Sent: Monday, October 26, 2026 1:14 PM
To: WQS
Subject: Home Builders Association of SC 's Comments to Proposed Changes to R.61-68 (Water Classifications and Standards) and R.61-69 (Classified Waters)

Dear Mr. Edwards:

On behalf of the Home Builders Association of South Carolina (HBASC), thank you for the opportunity to comment on the Department's proposed amendments to R.61-68 (Water Classifications and Standards) and R.61-69 (Classified Waters). HBASC represents home builders, developers, remodelers, and associated professionals across South Carolina, many of whom design and build projects that must meet these standards every day.

We appreciate the significant work the Department has put into this Triennial Review. The stakeholder meetings, and the clear redline presentation of proposed additions and deletions, made a technical process accessible and gave the regulated community a real opportunity to participate. Our members share the Department's goal of protecting South Carolina's waters, and we value the Department's openness throughout this process.

We asked member engineers to review the proposed changes. Their comments center on one overarching concern: regulatory subjectivity. When a standard leaves key terms undefined, compliance turns on case-by-case interpretation rather than objective criteria. That makes it difficult to design a project with confidence, can lead to different outcomes for similar projects, and adds time and cost that are ultimately passed on to South Carolina home buyers. Two proposed changes raise this concern most directly.

1. Unlisted and unnamed tributaries (R.61-68.C.5, C.7, and C.8)

We recognize that clarifying the language on unnamed tributaries was one of the Department's own goals for this review, and we support that effort. As proposed, R.61-68.C.5 and C.8 would apply the standards of "the class of the stream to which they are tributary" to intermittent, ephemeral, and other waters not classified by name in R.61-69. In tidally influenced areas, C.8 would apply the more stringent numeric criteria of two differently classified waterbodies to any unlisted tributary that "may affect or flows between" them.

Our member engineers are concerned that these provisions do not yet define the parameters needed to apply them consistently. We respectfully request that the Department clarify:

- how an intermittent or ephemeral stream will be identified;
- which classification applies when an unlisted tributary flows through other unlisted waters before reaching a classified waterbody;
- what standard will be used to decide that an unlisted tributary "may affect" a classified waterbody in tidal areas, since that phrase could reach waters that do not actually flow between the two waterbodies; and
- how the applicable classification will be documented and communicated to permit applicants.

Clear parameters would allow engineers and permit applicants to identify the applicable standard at the design stage, rather than learning it during permit review.

2. Narrative flow criterion (R.61-68.D.1.b and E.20)

The proposal would remove the phrase "consistent with riparian rights to reasonable use of water" from R.61-68.D.1.b and add a new standalone criterion at R.61-68.E.20: "The stream flows necessary to fully protect existing and classified uses shall be maintained." The proposal does not define what "fully protect" means or how the necessary flows will be determined. Removing the riparian rights language also removes a frame of reference that applicants and the Department have relied on.

We respectfully request that the Department define "fully protect" in practice and identify how necessary stream flows will be determined, whether through a stated methodology, a reference flow, or another objective measure. If the standard is defined, applicants will know what is required and can design projects to meet it.

HBASC supports clear, predictable water quality standards. Objective definitions for these two provisions would benefit the Department's staff and the regulated community alike by promoting consistent decisions and reducing disputes. We would welcome the opportunity to discuss these comments, and our member engineers are available to share their technical perspective.

Thank you again for your work on this review and for considering our comments.

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