October 23, 2026

Submitted via email

Andrew Edwards, P.E.
Bureau of Water Standards Coordinator
South Carolina Department of Environmental Services
2600 Bull Street
Columbia, South Carolina 29201

RE: PROPOSED AMENDMENT OF REGULATION R.61-68
WATER QUALITY STANDARDS SUBJECT TO THE CLEAN WATER ACT

Dear Mr. Edwards:

On behalf of South Carolina Manufacturers and Commerce (SCMC), we submit the following comments in response to the South Carolina Department of Environmental Services' (SCDES) notice of proposed regulation.

SCMC is a statewide organization representing a broad cross-section of South Carolina employers. Our member companies employ hundreds of thousands of South Carolinians in high-paying jobs and are leaders in recycling, environmental protection, renewable energy generation, and sustainable manufacturing. SCMC advances pro-job and pro-business policies at the state and federal levels and connects businesses through coordinated advocacy, training, and networking. Our goal is to foster a business climate in which companies can thrive while meeting the environmental protections required by state law and regulation. The comments below reflect that commitment to both sound environmental policy and a transparent, legally grounded regulatory process.

First, we were surprised that SCDES proposed a change related to flow quantity by adding E.20. to "establish hydrologic criteria." Also, apparently as a related item, SCDES changed the anti-degradation portion by revising D.1.b. to "clarify the existing antidegradation policy related to hydrologic criteria." Having representatives participating in WaterSC meetings and the subsequent development of the State Water Plan, these proposed revisions seem to be pursuing a change to the broader water quantity program. Our involvement in these processes, as initiated by the Governor, led us to understand that there was no need for any changes in the program at this time. This issue was also not discussed in the triennial stakeholder meetings earlier this year for this rule-making process. Therefore, SCMC objects to these changes because they lack a meaningful stakeholder process. Moreover, SCMC believes the Department's stated purpose for these two changes is unsubstantiated. At a minimum, this proposal is premature as no information regarding the implications of this change, including possible unintended consequences, has been corroborated by SCDES and shared with stakeholders for review.

Second, no explanation was provided by SCDES related to our request for changes to the use of "other scientifically-defensible published data" in developing permit limits. In the response to comments, the SCDES response to our previous comment was: "The Department acknowledges this

comment" without any explanation as to why SCDES decided not to act on this request. To reiterate our March 24, 2026, concerns, we suggest that the use of "surrogate criterion" in perpetuity outside the rule-making process violates the State's implementing authority.

To illustrate this concern, after many years of not doing so, SCDES has been using a 1988 EPA aluminum criteria for NPDES permits. SCDES should not be using this EPA value for Clean Water Act purposes since SCDES has yet to go through a standards adoption process (subject to legislative review and EPA's approval process). Subsequently, EPA updated the aluminum criteria and SCDES sought to include it in a prior triennial review process. Based on public comments, SCDES agreed to drop the criteria at that time based on the need to evaluate impacts in accordance with the Pollution Control Act requirements. However, SCDES has continued to use the prior "unpromulgated" aluminum criteria in NPDES permitting.

It appears that this provision in the regulation (as currently stated) was developed to adapt to new data that may need to be considered since the adoption process can be lengthy. However, we do recognize that SCDES has an emergency regulation "tool" available and previously used it when there was a PCB-in-sludge concern. Therefore, we are greatly concerned that SCDES is relying on a binding norm in developing NPDES permits with criteria that have not been duly promulgated. Language should be added to constrain the use of other scientifically-defensible published data only on a temporary basis until promulgation is completed. Aluminum is not the only example of this pattern by SCDES.

Finally, there were several proposed changes to the regulation that warrant further dialog before adoption. These changes are lacking in basis, unnecessary, and the potential implications of each item have not been adequately assessed:

- Changes related to the natural conditions definition.
- Addition of a definition for naturally variable parameters.
- Changes in DO standards to a tenth of a milligram per liter (e.g., 6-6.0 mg/l).
- Changes related to intermittent and ephemeral streams.
- Changes to unlisted waters related to tidal conditions.
- Changes related to hardness.

SCMC believes more direct and detailed discussions regarding the items above are warranted prior to promulgation into South Carolina's Code of Regulations, and we welcome the opportunity to participate in those discussions.

Thank you for your consideration of these comments.

Sincerely,



Sara Hazzard
President and CEO
South Carolina Manufacturers and Commerce

cc: Myra Reece, Director, SCDES