Andrew J. Edwards

From: Paul Calamita <paul@aqualaw.com>
Sent: Wednesday, October 21, 2026 12:05 PM
To: Andrew J. Edwards
Cc: Shawn M. Clarke; Ann R. Clark; Myra C. Reece
Subject: RE: Bacteria Permitting

Follow Up Flag: Follow up
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Yes, we will submit another comment asking that the ceiling concentration for both fresh and saltwater bacteria be lifted for all POTWs.

If during our meeting on this topic when DES proposed lifting the ceiling concentrations I missed some basis DES has for not lifting the entero ceiling concentration, it would be helpful to understand that so our comment can address it. Otherwise, we will ask again to lift the ceiling concentrations so that all daily max exceedances are subject to the resampling/verification procedure (up to four violations per calendar year).

On the subject of the four violations per calendar year, the proposed regulation says retesting is available until four samples exceed the daily max in a year. That is not what I understood we agreed to. I thought we agreed that retesting is available until there are four daily max violations in a year. If that is the agreement, we will also ask that DES change "samples" to "violations". If that is not the mutual understanding, please let me know asap.

Best,

Paul

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From: Andrew J. Edwards <Andrew.Edwards@des.sc.gov>
Sent: Tuesday, October 20, 2026 4:40 PM
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Cc: Shawn M. Clarke <Shawn.Clarke@des.sc.gov>; Ann R. Clark <Ann.Clark@des.sc.gov>; Myra C. Reece <Myra.Reece@des.sc.gov>
Subject: RE: Bacteria Permitting

Hello Paul,

Are you intending to submit these comments on behalf of the South Carolina Water Quality Association as part of the ongoing public comment period for the recently published Notice of Proposed Regulation for R.61-68 and R.61-69? If that is your intent, then I will be sure to include these comments in the record. If, however, that was not your intention, then I will not include these comments in the record.

Thanks!

Drew

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SC DEPARTMENT of ENVIRONMENTAL SERVICES

From: Paul Calamita <paul@aqualaw.com>
Sent: Tuesday, October 20, 2026 3:38 PM
To: Andrew J. Edwards <Andrew.Edwards@des.sc.gov>
Cc: Shawn M. Clarke <Shawn.Clarke@des.sc.gov>; Ann R. Clark <Ann.Clark@des.sc.gov>; Myra C. Reece <Myra.Reece@des.sc.gov>
Subject: Bacteria Permitting

I hope everyone is doing well.

I am surprised to hear that DES has only applied the bacteria permitting change to POTWs discharging to fresh waters. While we discussed, by way of example, the effect of lifting the 800-count e.coli value that prevents using the re-test procedure, we have been consistent that we want the change (lifting the ceiling concentration) for all POTWs. I have previously sent the attached "Rationale" document to all of you and it does not limit the request to POTWs discharging to fresh waters. It does not mention freshwater, saltwater, or otherwise. It requests monthly/weekly for all POTWs. Our February 27, 2026 comments asked for Monthly/Weekly and attached for all POTWs. Our June 24, 2025 letter (copy attached) also did not limit the request to POTWs discharging to freshwater dischargers.

When we met on the eve of DES sending language to the register, we were surprised to first hear of DES' proposed compromise of lifting the ceiling concentration(s) as a counter to our request for monthly/weekly geomean limits for all POTWs. Had we known the relief was just for POTWs discharging to fresh waters, we would have rejected it because it would be arbitrary (and unfair) not to provide such relief to our coastal discharge members as well.

I don't recall during that meeting that DES indicated the lifting of the ceiling threshold would only apply to freshwater dischargers and that there was a reason DES had to not apply it to saltwater. I thought the reference to the 800 counts for e.coli was an example/illustrative of the benefit (65% of the prior violations would now be eligible for the retest option).

We think the ceiling concentrations for both e.coli and entero, which limit the availability of the retest option, should be removed from the regulation. Moreover, in our view, none of this permitting implementation language should be in the regulation in the first place.

We are available to discuss at your convenience.

Paul

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