



March 21, 2019

Mr. Andrew Edwards

Water Quality Standards Coordinator
Bureau of Water
Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Comments on 2019 Triennial Review of Regulation 61-68, *Water Classifications and Standards*, and Regulation 61-69, *Classified Waters*

Dear Mr. Edwards,

On February 22, 2019, the South Carolina Department of Health and Environmental Control (Department) released a Notice of Drafting for the 2019 Triennial Review of Regulations 61-68, *Water Classifications and Standards*, and Regulation 61-69, *Classified Waters*. During the 2010, 2013, and 2016 Triennial Review, numerous conservation organizations recommended the Department establish numeric instream nutrient standards and narrative flow criteria that would fully protect all waters of the State. We reiterate those recommendations, and respectfully submit the following comments and recommendations in regards to the 2019 Triennial Review.

The Department should prioritize the establishment of instream nutrient standards for all SC rivers and streams. In *The State of South Carolina's Adoption Plan for Numeric Nutrient Water Quality Criteria*, the Department established a schedule for adoption of numeric nutrient criteria for estuaries, rivers, and streams by 2008.¹ Eleven years behind schedule, it is now critical that the Department establish instream nutrient criteria in the 2019 Triennial Review. In meetings with stakeholder groups in February and March 2019, the Department indicated that criteria for estuaries would be developed in the 2019 Triennial Review and adopted by 2022. The Department then suggested the development of instream nutrient criteria for rivers and streams in the 2025 Triennial Review and adoption in 2028—more than twenty years after the Department's original deadline for the adoption of nutrient criteria.

We are pleased that the Department has acknowledged the need for instream nutrient criteria, but are concerned with the proposed timeline to establish the criteria, citing a need for more data collection and analysis. While we understand the need for thorough investigation to determine parameters specific to South Carolina waters, we caution the Department from delaying on actions necessary to establish nutrient criteria. As stated in the Adoption Plan, the Department has traditionally collected phosphorus, nitrogen, and turbidity data as part of its stream

¹ The State of South Carolina's Adoption Plan for Numeric Nutrient Water Quality Criteria (2007).
http://aquaterra.com/pub/EPA_WA18_archive/SC-2007.pdf

monitoring program for decades, providing data that should be used to establish numeric nutrient standards. The Department has reportedly collected data and coordinated with the Georgia Department of Natural Resources for the specific purpose of establishing numeric nutrient criteria for rivers and estuaries since 2010.² We encourage the Department to continue these efforts, while moving forward with analysis and the development of nutrient standards.

The Department should do more to protect waters of the State by developing narrative standards for instream flow. Sufficient flow is essential for protection of the physical, chemical, and biological quality of the waters of the State. Hydrologic alteration can impact aquatic life, as well as the designated uses of streams and rivers, including recreation, drinking water, and water use by agriculture and industry. Increased flooding and drought events will exacerbate these impacts, adding stress to South Carolina rivers and streams. The Department should prioritize water security through the development and adoption of narrative flow standards.^{3,4}

In May 2013, the Region 4 office of the Environmental Protection Agency (EPA) wrote to the Department with a recommendation to adopt a narrative flow standard, and has encouraged all states and tribes within Region 4 to consider the explicit expression of flow as a water quality standard. A longstanding request of conservation groups since 2010, the development and adoption of narrative flow standards into Regulation 61-68 would ensure the protection of our state waters while considering regionally appropriate parameters for hydrologic assessment.³

Finally, the Department should reconsider the adoption of criteria for 94 toxic pollutants in accordance with the EPA's updated human health and aquatic life criteria. In the Notice of Drafting for the 2016 Triennial Review, the Department proposed to adopt, where appropriate, the EPA's 2015 updated human health water quality criteria for 94 chemical pollutants. This proposal was contested by several industrial interests (i.e., SC Manufacturers Alliance, SC Pulp & Paper Association), who claimed the Department would be acting in violation of the SC Pollution Control Act (SC Code 48-1-10 to 350) because "the state did not perform required studies on each chemical pollutant listed" using data specific to South Carolina waters.^{5,6} We respectfully request the Department reconsider adoption of the updated criteria, as they are essential for the protection of human health and would serve in the best interest of all South Carolinians.

² Updated SC Adoption Plan for Numeric Nutrient Criteria (2010). <https://cfpub.epa.gov/wqsits/nnc-development/ncdp/scplan2010.pdf>

³ In August 2015, the EPA clarified its Clean Water Act guidance for "waters impaired due to pollution not caused by a pollutant" under Category 4C of their Integrated Reporting Guidance, including those affected by hydrologic alteration. http://www.epa.gov/sites/production/files/2015-10/documents/2016-ir-memo-and-cover-memo-8_13_2015.pdf

⁴ The U.S. Supreme Court specifically addressed the Clean Water Act's authority to regulate both water quality and quantity in PUD No. 1 of Jefferson County v. Washington Department of Ecology.

⁵ Comments from the SC Manufacturers Alliance to the Department for the 2016 Triennial Review. <https://scdhec.gov/sites/default/files/docs/HomeAndEnvironment/Docs/WQS/South%20Carolina%20Manufacturers%20Alliance%20Comments.pdf>

⁶ Comments from the SC Pulp & Paper Association to the Department for the 2016 Triennial Review. <https://scdhec.gov/sites/default/files/docs/HomeAndEnvironment/Docs/WQS/South%20Carolina%20Pulp%20and%20Paper%20Association%20Comments.pdf>

We encourage the Department to follow the recommendations from EPA Region 4 for the establishment of numeric nutrient criteria and narrative flow standards for SC rivers and streams, and to reconsider the adoption of human health criteria for 94 chemical pollutants. It is the intent of the Department “to have our State’s waters covered by numeric criteria and to ensure they reflect a scientifically-defensible and sound approach”.² We look forward to working with the Department to achieve this goal and to protect the waters of the State. Thank you for consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Megan Chase". The signature is written in a cursive, flowing style.

Megan Chase
Clean Water Advocate
Upstate Forever

CC: Mr. Mike Marcus, SC DHEC
Ms. Lauren Petter, US EPA Region 4
Mr. Jamal Cooper, US EPA Region 4