

Isolated Wetlands and Carolina Bays Task Force

Glossary of Essential Terms

1. **Carolina Bays** are shallow, poorly drained, elliptical, depressions found throughout out the unconsolidated sediments of the Atlantic coastal plain that are characterized by nine distinctive features which may be exhibited totally or in part with any given bay and share various features with other isolated wetland types, including floristic composition, distribution of vegetation, substrate, and origin.

The nine distinctive features are (1) elliptical or oval shape; (2) northwest-southeast orientation; (3) parallel axes; (4) sand rims raised above general level; (5) interior surfaces below general level, (6) differences between interior and surrounding soils, (7) relatively shallow depths, (8) flat, sandy bottoms beneath interior fill, and (9) independence of inflowing and out flowing streams.

(S.C. Department of Natural Resources. 1999. Advance Identification of Carolina Bays for South Carolina Wetlands Protection. Land, Water, and Conservation Division. pp. 3-4)

2. **Delineations** of wetlands is the process used by the United States Army Corps of Engineers to identify the location and extent of a wetland and distinguish it from other aquatic habitats or uplands.

(provided by the United States Army Corps of Engineers)

3. **Isolated Wetland** means a wetland that is not hydrologically connected to other wetlands, streams, branches, creeks, rivers, or other flowing water.

The term “isolated wetland” describes a particular subset of wetlands. It is not determinative as to whether that particular subset of wetlands is regulated by federal law or state law.

4. **Jurisdictional Determination** means a determination as to whether a wetland is jurisdictional and is a water of the U.S. and is subject to regulation pursuant to the federal Clean Water Act.

(provided by the United States Army Corps of Engineers)

5. **Jurisdictional Wetland** means a wetland that is comprised of waters of the United States and therefore subject to regulation pursuant to the federal Clean Water Act.

6. **Non-Jurisdictional Wetland** means a wetland that is not subject to regulation by federal law but is a water of the State and may be regulated pursuant to State law.

7. **Waters of the State** means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. (South Carolina Pollution Control Act, SC Code of Laws 48-1-10)

8. **Waters of the United States or waters of the U.S.** means:

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- a. all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. all interstate waters, including interstate wetlands;
- c. all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;
- d. all impoundments of waters otherwise defined as waters of the United States under this definition;
- e. tributaries of waters identified in paragraphs (a) through (d) of this definition;
- f. the territorial sea; and
- g. wetlands adjacent to waters (other than waters which are themselves wetlands) identified in paragraphs (a) through (f) of this definition; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA. (40 CFR 230.3(s))

9. **Wetlands** means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (R. 61-9.122.2(b))

To fulfill its obligation to compile a glossary of standard terms and definitions used when describing Carolina Bays and isolated wetlands, all relevant definitions contained in S.C Code Ann. Reg. 61-9, 61-68, 61-101, and the South Carolina Pollution Control Act, 48-1-10, et. seq. S.C. Code of Laws, 1976, not already included in this glossary, are hereby incorporated by reference.

A complete copy of the definitions contained in S.C Code Ann. Reg. 61-9, 61-68, 61-101, and the South Carolina Pollution Control Act, 48-1-10, et. seq. S.C. Code of Laws, 1976, is attached for reference.

CHAPTER 61.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

61-9. WATER POLLUTION CONTROL PERMITS

PART A. DEFINITIONS AND GENERAL PROGRAM REQUIREMENTS

122.2. Definitions.

(a) The following definitions apply to this regulation, R.61-9.124, R.61-9.125, R.61-9.129, R.61-9.133, and R.61-9.403. Terms not defined in this section have the meaning given by the Clean Water Act (CWA) or the Pollution Control Act (PCA).

(b) Definitions:

"Administrator" means the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under section 307(a) of the CWA, or any person who shall by operation of law be authorized to carry out such functions.

Note: "Animal feeding operation" is defined at section 122.23.

"Applicable standards and limitations" means all State, interstate, and federal standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards, and standards for sewage sludge use or disposal under section 301, 302, 303, 304, 306, 307, 308, 403 or 405 of CWA.

"Applicant" means a person applying to the Department for a State or NPDES permit to discharge wastes into the waters of the State or to operate a treatment works.

"Application" means the uniform NPDES application form, including subsequent additions, revisions, or modifications thereof promulgated by the Administrator of EPA, and adopted for use by the Board or a State permit application form.

Note: "Aquaculture project" is defined at section 122.25.

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practices" (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of

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the State. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"BMP" means best management practices.

"Board" means the Board of Health and Environmental Control for the State of South Carolina and shall be inclusive of any agent designated by the Board to perform any function.

Note: "Bypass" is defined at section 122.41(m).

"CFR" means the Code of Federal Regulations, as amended.

"Class I sludge management facility" means any POTW identified under R.61-9.403.8(a), as being required to have an approved pretreatment program and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the Regional Administrator in conjunction with the Department because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

"Code" means the South Carolina Code of 1976, as amended.

"Commissioner" means the Commissioner of the S.C. Department of Health and Environmental Control, or his designated representative.

Note: "Concentrated animal feeding operation" is defined at section 122.23.

Note: "Concentrated aquatic animal feeding operation" is defined at section 122.24.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA will be according to Pub. L. 92-500 notation.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations promulgated thereunder and includes State NPDES program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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"Department" means the S.C. Department of Health and Environmental Control and shall also be inclusive of those persons within the Department authorized by the Board to administer the NPDES program or take any action in behalf of the Board.

"Direct discharge" means the discharge of a pollutant.

"Discharge" means any discharge or discharge of any sewage, industrial wastes or other wastes into any of the waters of the State, whether treated or not.

"Discharge of a pollutant"

(1) means:

(i) Any addition of any pollutant or combination of pollutants to waters of the State from any point source, or

(ii) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

(2) includes additions of pollutants into waters of the State from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report" (DMR) means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees, and modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

"Discharger" means any person who discharges any treated or untreated sewage, industrial wastes, or other wastes into any of the waters of the State.

"DMR" means Discharge Monitoring Report.

"Draft Permit" means a document prepared by the staff of the Department, in accordance with R.61-9.124.6, prior to public notice of an application for a permit by a discharger. This document indicates the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit to discharge. It contains proposed effluent standards and limitations, proposed compliance schedules and other proposed conditions or restrictions deemed necessary by the Department for a discharge. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in R.61-9.124.5, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in R.61-9.124.5, is not a draft permit. A "proposed permit" is not a draft permit.

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"Effluent limitation" means any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the State, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means: A regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.

"Effluent standards and limitations" means restrictions or prohibitions of chemical, physical, biological, and other constituents which are discharged from point sources into State waters, including but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, pretreatment standards and schedules of compliance.

"Environmental Protection Agency" (EPA) means the United States Environmental Protection Agency.

"EPA" means the United States Environmental Protection Agency.

"Facility or activity" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

"Fact sheet" means a description of a discharge available to the public prepared by the Department staff pursuant to the guidelines, which includes, but is not limited to, information on the location of the discharge, rate of frequency of the discharge, components of the discharge, proposed requirements of the Department regarding the discharge, the location and identification of uses of the receiving waters, water quality standards and procedures for formulation of final requirements on the discharge by the Department.

"Federal Act" means the Federal Water Pollution Control Act (CWA), as amended.

"General permit" means an NPDES permit issued under section 122.28 authorizing a category of discharges or activities under the PCA and CWA within a geographical area.

"Hazardous substance" means any substance designated under 40 CFR Part 116 pursuant to section 311 of CWA.

"Indian country" means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

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"Indirect discharger" means a non-domestic discharge introducing pollutants to a publicly owned treatment works.

"Industry" means a private person, corporation, firm, plant or establishment which discharges sewage, industrial wastes or other wastes into the waters of the State.

"Interstate agency" means an agency of two or more States established by or under an agreement or compact approved by the Congress, or any other agency of two or more States having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the CWA and regulations.

"Mailing list" means a list of persons requesting notification and information on public hearings, permits and other NPDES forms.

"Major Facility" means any NPDES facility or activity classified as such by the Regional Administrator in conjunction with the Department.

"Management agency" means an area-wide waste treatment management agency designated by the governor pursuant to Section 208(a) of the Federal Act.

"Maximum daily discharge limitation" means the highest allowable daily discharge.

"Minor discharge" means a discharge of wastewater which has a total volume of less than 50,000 gallons on every day of the year, does not closely affect the waters of another state and is not identified by the Department, the Regional Administrator or by the Administrator of EPA in regulations issued by him pursuant to Section 307(a) of the Federal Act, as a discharge which is not a minor discharge, except that in the case of a discharge of less than 50,000 gallons on any day of the year which represents 1 or 2 or more discharges from a single person which in total exceeds 50,000 gallons on any day of the year, then no discharge from the facility is a minor discharge.

Note: "Municipal separate storm sewer system" is defined at sections 122.26 (b).

"Municipality" means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of CWA.

"National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA.

"New discharger"

(1) means any building, structure, facility, or installation:

(i) From which there is or may be a discharge of pollutants.

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(ii) That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;

(iii) Which is not a new source, and

(iv) Which has never received a finally effective NPDES permit for discharges at that site.

(2) includes an indirect discharger which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a site under Department's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in section 122(a)(1) through (10). An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

"New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or

(2) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

"NPDES" means National Pollutant Discharge Elimination System established by the CWA.

"NPDES form" means any issued permit or any uniform national form used by the Department developed for use in the NPDES, including a NPDES application, a Refuse Act permit application and a reporting form.

"NPDES permit" means a permit issued by the Department to a discharger pursuant to regulations adopted by the Board for all point source discharges into surface waters, and shall constitute a final determination of the Board.

"Non-compliance list" means a list of dischargers, prepared by the Department pursuant to this regulation and the guidelines for transmittal to the Regional Administrator, who fail or refuse to comply with a compliance schedule in a NPDES permit issued pursuant to the State law.

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"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program.

"Permit" means an authorization, license, or equivalent control document issued by the Department to implement the requirements of this regulation, 40 CFR Parts 123, and R.61-9.124. Permit includes an NPDES general permit (section 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

"Person" means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

"Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Point source discharge" means a discharge which is released to the waters of the State by a discernible, confined and discrete conveyance, including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which waste is or may be discharged.

### "Pollutant"

(1) means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(2) does not mean:

(i) Sewage from vessels; or

(ii) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Pollution Control Act" (PCA) means the South Carolina Pollution Control Act (PCA), S.C. Code Ann. section 48-1-10 et seq. (1976).

"POTW" means publicly owned treatment works.

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"Primary industry category" means any industry category listed in the NRDC settlement agreement (Natural Resources Defense Council et al., v. Train, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of this regulation.

"Privately owned treatment works" means any device or system which both is used to treat wastes from any facility whose operator is not the operator of the treatment works and is not a POTW.

"Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

"Proposed permit" means a State NPDES permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) which is sent to EPA for review before final issuance by the State. A "proposed permit" is not a draft permit.

"Publicly owned treatment works" or POTW means a treatment works as defined by section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by section 502[4] of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality, as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges to and the discharge from such a treatment works.

"Recommencing discharger" means a source which recommences discharge after terminating operations.

"Refuse Act permit application" means an application for a permit issued under authority of Section 13 of the United States Rivers and Harbors Act of March 3, 1899.

"Regional Administrator" means the Regional Administrator of Region IV of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Reporting form" means the uniform NPDES reporting form, including subsequent additions, revisions or modifications thereof, adopted by the Department for use in administering this regulation, or a State form prescribed by the Department for use in administering this regulation, for reporting data and information to the Department by a discharger on monitoring and other conditions of permits.

"Satellite sewer system" means a sewer system that is owned or operated by one person that discharges to a system that is owned or operated by a different person. Satellite sewer systems depend on a separate person for final wastewater treatment and discharge and include systems approved under R.61-9.505.8.

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"Schedule of compliance" means a schedule of remedial measures included in a "permit", including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the CWA and regulations.

"Secondary industry category" means any industry category which is not a primary industry category.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Septage" means the liquid and solid material pumped from septic tank, cesspool or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

"Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under section 312 of CWA.

"Sewage Sludge" means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings or ash generated during the incineration of sewage sludge.

"Sewage sludge use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use or disposal of sewage sludge.

"Sewer system" means any system of wastewater collection lines, sewers, interceptors and pump stations, except for service connections, as defined by R.61-67. In this part, a sewer system includes "sewage system" as defined by the Pollution Control Act.

Note: "Silvicultural point source" is defined at section 122.27.

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sludge-only facility" means any "treatment works treating domestic sewage" whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to section 405(d) of the CWA and is required to obtain a permit under section 122.1(b)(2).

"Standards for sewage sludge use or disposal" means the regulations promulgated pursuant to section 405(d) of the CWA which govern minimum requirements for sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

"State" means the State of South Carolina.

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"State/EPA Agreement" means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs including those under the CWA programs.

"State Law" means the S.C. Pollution Control Act (PCA), specifically 48-1-10 through 48-1-350 of the South Carolina Code of 1976, and any subsequent amendments thereto.

"State permit" See R-61-9.505.2 for definition.

Note: "Storm water" is defined at section 122.26(b)(13).

Note: "Storm water discharge associated with industrial activity" is defined at section 122.26(b)(14).

"Total dissolved solids" (TDS) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136.

"Toxic pollutant" means any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA.

"Trade secret" means the whole or any portion or phase of any manufacturing proprietary process or method, not patented, which is secret, useful in compounding an article of trade having a commercial value, and the secrecy of which the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access thereto to limited purpose. It shall not be construed for purpose of this regulation to include any information relative to the quantity and character of waste products or their constituents discharged into waters of the State.

"Treatment works" means any plant, disposal field, lagoon, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfills or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

"Treatment works treating domestic sewage" (TWTDS) means a POTW or any other sewage sludge or waste water treatment devices or system, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under section 405(f) of the CWA, the Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal in 40 CFR Part 503 as a treatment works treating domestic sewage, where he or she finds that

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there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling use or disposal practices or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503.

"TWTDS" means treatment works treating domestic sewage.

Note: "Upset" is defined at section 122.41(n).

"Variance" means any mechanism or provision under section 301 or 316 of CWA, PCA, or R.61-9.125, or in the applicable effluent limitations guidelines which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of CWA. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on section 301(c), 301(g), 301(h), 301(i), or 316(a) of CWA.

"Vessel" means any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this State, passenger or other cargo carrying vessels, privately owned recreational watercraft or any other floating craft.

"Waste" shall be synonymous with sewage, industrial waste, and other wastes.

"Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

"Waters of the United States" or "waters of the U.S.";

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate "wetlands;"

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

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(5) Tributaries of waters identified in paragraphs (1) through (4) of this definition;

(6) The territorial sea; and

(7) Wetlands adjacent to waters (other than waters which are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

(8) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

61-101. Water Quality Certification.

**B. DEFINITIONS**

Other than those terms defined below, any term used in this regulation shall be the same as defined in Section 48-1-10 or Regulation 61-68 of the Code of Laws, 1976.

**CHAPTER 61.**

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**61-68. Water Classifications and Standards.**

**Section B. DEFINITIONS**

1. The definition of any word or phrase employed in this regulation shall be the same as given in the South Carolina Pollution Control Act, 48-1-10, et seq., S.C. Code of Laws, 1976, hereafter referred to as the Act. Words or phrases which are not defined in the Act are defined as follows:

2. 7Q10 means the annual minimum seven day average flow rate that occurs with an average frequency of once in ten years as published or verified by the U. S. Geological Survey (USGS) or an estimate extrapolated from published or verified USGS data.

3. Acute means a stimulus severe enough to rapidly induce an effect; in aquatic toxicity tests, an effect observed in 96 hours or less typically is considered acute. When referring to aquatic toxicology or human health, an acute effect is not always measured in terms of lethality.

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4. Acute-to-chronic ratio (ACR) means the ratio of the acute toxicity of an effluent or a toxicant to its chronic toxicity. It is used as a factor for estimating chronic toxicity on the basis of acute toxicity data, or for estimating acute toxicity on the basis of chronic toxicity data.

5. Agricultural means the use of water for stock watering, irrigation, and other farm purposes.

6. Annual average flow means the annual mean flow rate of a stream at a specific point as published or verified by the U. S. Geological Survey (USGS) or an estimated annual mean flow rate extrapolated from published or verified USGS data.

7. Aquaculture means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

8. Aquatic farm means the cultivation, production, or marketing of domestic aquatic organisms which are any fish, aquatic invertebrates, or aquatic plants that are spawned, produced, or marketed as a cultivated crop in the waters of the State.

9. Aquatic toxicity test mean laboratory experiments that measure the biological effect (e.g., growth, survival, and reproduction) of effluents or receiving waters on aquatic organisms.

10. Aquifer means a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of ground water to wells or springs.

11. Balanced indigenous aquatic community means a natural, diverse biotic community characterized by the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species and by a lack of domination by pollutant tolerant species.

12. Best management practice (BMP) means a practice or combination of practices that are the most effective, practical ways of controlling or abating pollution from widespread or localized sources.

13. Bioaccumulation means the process by which a compound is taken up and retained by an aquatic organism, both from water and through food.

14. Bioavailability means a measure of the physiochemical access that a toxicant has to the biological processes of an organism. The less the bioavailability of a toxicant, the less its toxic effect on an organism.

15. Bioconcentration means the process by which a compound is absorbed from water through gills or epithelial tissues and is concentrated in the body.

16. Bioconcentration factor (BCF) means the ratio of a substance's concentration in tissue versus its concentration in water, in situations where the food chain is not exposed or represents equilibrium partitioning between water and organisms.

17. Biological assessment means an evaluation of the biological condition of a waterbody using biological surveys and other direct measurements of resident biota in surface waters and sediments.

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18. Biological criteria, also known as biocriteria, mean narrative expressions or numeric values of the biological characteristics of aquatic communities based on appropriate reference conditions. Biological criteria serve as an index of aquatic community health.

19. Biological monitoring, also known as biomonitoring, means a description of the living organisms in water quality surveillance used to indicate compliance with water quality standards or permit effluent limits and to document water quality trends. Methods of biological monitoring may include, but are not limited to, toxicity testing such as ambient toxicity testing, whole effluent toxicity testing, and ambient assessment of the resident biological community.

20. Chlorophyll *a* means a photosynthetic pigment present in all types of green plants. It is used as a measure of algal biomass and is an indicator of nutrient enrichment.

21. Chronic means a stimulus that lingers or continues for a relatively long period of time, often one-tenth of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality.

22. Classified uses means those uses specified in Section G for surface waters and Section H for ground waters, whether or not those uses are being attained.

23. Concentrated aquatic animal production facility means a hatchery, fish farm, or other facility related to aquatic animal production which is not located in waters of the State and is subject to a National Pollutant Discharge Elimination System (NPDES) permit.

24. Conventional treatment as applying to potable water supplies means treatment including at least flocculation, sedimentation, filtration, and disinfection.

25. Criterion continuous concentration (CCC) means the highest instream concentration of a toxicant or an effluent to which the organisms can be exposed to protect against chronic (long-term) effects. EPA derives chronic criteria from longer term (often greater than 28 days) tests that measure survival, growth, reproduction, and in some cases bioconcentration.

26. Criterion maximum concentration (CMC) means the highest instream concentration of a toxicant or an effluent to which the organisms can be exposed for a brief period of time without causing an acute effect. EPA derives acute criteria from 48 to 96 hour tests of lethality or immobilization.

27. Daily average means the average of all samples taken during any 24 hour period.

28. Deleterious substances mean those substances which in sufficient concentrations or levels have a harmful effect on classified or existing water uses.

29. Ecoregions mean areas of general similarity in ecosystems and in the type, quality, and quantity of environmental resources and are designed to serve as a spatial framework for the research, assessment, management, and monitoring of ecosystems and ecosystem components. The EPA has published a

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document that outlines the Level III ecoregions (please refer to U.S. Environmental Protection Agency, 1999. Level III ecoregions of the continental United States (revision of Omernik, 1987). Corvallis, Oregon, U.S. E.P.A.-National Health and Environmental Effects Research Laboratory, Map M-1.) The following are South Carolina Level III ecoregions: Blue Ridge Mountains, Piedmont, Southeastern Plains, and Middle Atlantic Coastal Plains.

30. Ephemeral streams mean streams that generally have defined natural watercourses that flow only in direct response to rainfall or snowmelt and in which discrete periods of flow persist no more than 29 consecutive days per event.

31. Existing uses means those uses actually being attained in or on the water, on or after November 28, 1975, regardless of the classified uses.

32. Fishing means the taking, harvesting, or catching of finfish or crustaceans for human consumption.

33. Full pool elevation means the maximum lake level attained before water releases over a fixed weir, spillway, or other discharge structure. In larger lakes and reservoirs, the full pool elevation is the maximum level established for management.

34. Groundwater means water below the land surface in a zone of saturation.

35. Hydrograph controlled release (HCRs) means the onsite storage or holding of treated wastewater or the use of an alternative discharge option contained in Section D.2.a. of this regulation, during specified critical streamflow conditions and then discharging the treated wastewater to the stream when streamflow is sufficient to assimilate the wastewater.

36. Intermittent streams means streams that generally have defined natural watercourses which do not flow year around, but flow beyond periods of rainfall or snowmelt.

37. Lake means any water of the State that is a freshwater pond, reservoir, impoundment, or similar body of water located wholly or partially within the State.

38. LC<sub>50</sub> means the concentration of a toxicant at which lethality occurs to 50 percent of the test organisms during a specified exposure time period.

39. Mixing zone means:

a. For surface waters, an area where a discharge undergoes initial dilution and is extended to cover the secondary mixing in the ambient waterbody. A mixing zone is an allocated impact zone where water quality criteria can be exceeded as long as acutely toxic conditions are prevented (except as defined within a Zone of initial dilution) and public health and welfare are not endangered.

b. For ground waters, a hydrogeologically controlled three-dimensional flow path in the subsurface which constitutes the pathway for waste constituents to migrate from a source.

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40. Natural conditions mean those water quality conditions unaffected by anthropogenic sources of pollution.

41. No discharge zone (NDZ) means a waterbody (or a portion of a waterbody) so designated that no discharging Marine Sanitation Devices (MSDs) are allowed on vessels on waterbodies so designated. All vessels located on such designated waterbodies shall be equipped with MSDs which discharge to a holding tank which shall be pumped out at a designated pump-out location or shall discharge legally outside the boundary of the United States.

42. No observed effect concentration (NOEC) means the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specific time of observation and determined using hypothesis testing.

43. Nutrients mean an element or chemical essential to life including, but not limited to, nitrogen and phosphorus.

44. Organoleptic effects mean those sensory effects associated with taste and smell.

45. Outstanding recreational or ecological resource waters means waters which are of exceptional recreational or ecological importance or of unusual value. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources; or waters used for or having significant value for scientific research and study.

46. Practical Quantitation Limit (PQL) means a concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. It is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specific sample weights volumes, and processing steps have been followed..

47. Prohibited area means an area adjacent to point source discharges or other sources of potential contamination in shellfish growing waters where the gathering of clams, mussels, or oysters is prohibited to protect public health.

48. Primary contact recreation means any activity with the intended purpose of direct water contact by the human body to the point of complete submergence, including but not limited to swimming, water skiing, and skin diving.

49. Propagation means the continuance of species through reproduction and growth in the natural environment, as opposed to the maintenance of species by artificial culture and stocking.

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50. Public water system means any public or privately owned waterworks system which provides drinking water for human consumption, except those serving a single private residence or dwelling.

51. Recharge area means an area where an underground source of drinking water is poorly confined, is under water table conditions, and has a downward component of flow from the water table into the underground source of drinking water.

52. Secondary contact recreation means any activity occurring on or near the water which does not have an intended purpose of direct water contact by the human body to the point of complete submergence, including but not limited to fishing, boating, canoeing, and wading.

53. Shellfish mean bivalve mollusks, specifically clams, mussels, or oysters.

54. Shellfish harvesting means taking of bivalve mollusks, specifically clams, mussels, or oysters, for direct marketing or human consumption.

55. Source for drinking water supply means any source of surface water which is used for domestic consumption, or used in connection with the processing of milk, beverages, food or for other purposes which required finished water meeting regulations [40 CFR Part 141 and 40 CFR Part 143] established pursuant to the Safe Drinking Water Act (Public Law 93-523, 95-190) applicable to public water systems.

56. Tidal conditions mean conditions determined by the Department as appropriate for tidally influenced waters of the State to be analogous to the 7Q10 or the annual average flow for flowing waters of the State.

57. Tidal saltwaters means those waters whose elevation is subject to changes due to oceanic tides and which have chloride ion content in excess of 250 milligrams per liter (mg/l) (salinity = 0.48 parts per thousand).

58. Toxic wastes means those wastes or combinations of wastes including disease-causing agents which, discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, may cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), physical deformations, or restrict or impair growth in such organisms or their offspring.

59. Underground source of drinking water (USDW) means an aquifer or its portion:

- a. Which supplies any public water system or individual residential well; or
- b. Which contains a sufficient quantity of ground water to supply a public water system or individual residential well; and,
  - (1) Currently supplies drinking water for human consumption; or
  - (2) Contains water with less than ten thousand milligrams per liter total dissolved solids.

60. Variance means a short-term exemption from meeting certain otherwise applicable water quality standards.

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61. Water table means that level below the land surface at which all the voids are filled with water at a pressure equal to atmospheric.

62. Weekly average means the average of all samples taken during any consecutive seven day period.

63. Whole effluent toxicity (WET) means the aggregate toxic effect of an aqueous sample measured directly by an aquatic toxicity test.

64. Zone of initial dilution (ZID) means that minimal area of a mixing zone immediately surrounding the outfall where water quality criteria are not met, provided there is no acute toxicity to drifting organisms and public health and welfare are not endangered.

### Title 48 - Environmental Protection and Conservation

#### CHAPTER 1.

#### POLLUTION CONTROL ACT

SECTION 48-1-10. This chapter may be cited as the "Pollution Control Act" and, when used herein, unless the context otherwise requires:

(1) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever;

(2) "Waters" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction;

(3) "Marine district" means the waters of the Atlantic Ocean within three nautical miles from the coast line and all other tidal waters within the State;

(4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present and the admixture with sewage of industrial wastes or other wastes shall also be considered "sewage";

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(5) "Industrial waste" means any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development of any natural resources;

(6) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, clay, lime, cinders, ashes, offal, oil, gasoline, other petroleum products or by-products, tar, dye stuffs, acids, chemicals, dead animals, heated substances and all other products, by-products or substances not sewage or industrial waste;

(7) "Pollution" means (1) the presence in the environment of any substance, including, but not limited to, sewage, industrial waste, other waste, air contaminant, or any combination thereof in such quantity and of such characteristics and duration as may cause, or tend to cause the environment of the State to be contaminated, unclean, noxious, odorous, impure or degraded, or which is, or tends to be injurious to human health or welfare; or which damages property, plant, animal or marine life or use of property; or (2) the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water;

(8) "Standard" or "standards" means such measure of purity or quality for any waters in relation to their reasonable and necessary use as may after hearing be established;

(9) "Department" means the Department of Health and Environmental Control;

(10) "Sewage system" or "sewerage system" means pipelines and conductors, pumping stations, force mains and all other construction, devices and appliances appurtenant thereto used for conducting sewage, industrial waste or other wastes to a point of ultimate discharge;

(11) "Treatment works" means any plant, disposal field, lagoon, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes;

(12) "Disposal system" means a system for disposing of sewage, industrial waste or other wastes, including sewerage systems and treatment works;

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(13) "Outlet" means the terminus of a sewer system or the point of emergence of any water-borne sewage, industrial waste or other wastes, or the effluent therefrom, into the waters of the State;

(14) "Shellfish" means oysters, scallops, clams, mussels and other aquatic mollusks and lobsters, shrimp, crawfish, crabs and other aquatic crustaceans;

(15) "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts which surrounds human, plant, or animal life, water or property;

(16) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by processes other than natural;

(17) "Source" means any and all points of origin of air contaminants whether privately or publicly owned or operated;

(18) "Undesirable level" means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in sufficient quantity and of such characteristics and duration as to be injurious to human health or welfare, or to damage plant, animal or marine life, to property or which unreasonably interfere with enjoyment of life or use of property;

(19) "Emission" means a release into the outdoor atmosphere of air contaminants;

(20) "Environment" means the waters, ambient air, soil and/or land;

(21) "Effluent" means the discharge from a waste disposal system;

(22) "Effluent limitations" means restrictions or prohibitions of chemical, physical, biological, and other constituents which are discharged from point sources into State waters, including schedules of compliance;

(23) "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel, or other floating craft, from which pollutants are or may be discharged.