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**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Section 44‑1‑140(7)

61-50. Natural Public Swimming Areas

**Synopsis:**

 On June 22, 2012, Regulation 61‑68, *Water Classifications and Standards*, was amended and changed the bacteriological water quality indicator used to determine water classifications from fecal coliform to E. coli. Regulation 61‑50, *Natural Public Swimming Areas,* establishes minimum criteria for construction, operation and bacteriological water quality at natural public swimming areas. Currently, Regulation 61‑50 requires natural public swimming areas to comply with fecal coliform bacteria standards in order to remain open to the public. These amendments of Regulation 61‑50 change the bacteriological water quality standard from fecal coliform to E. coli so that Regulation 61‑50 is consistent with Regulation 61‑68. See Statements of Need and Reasonableness and Rationale herein.

 A Notice of Drafting for these amendments was published in the February 27, 2015 *State Register.*

Section-by-Section Discussion of Amendments

61‑50.C.7

Revised to replace fecal coliform with E. Coli as the indicator of bacteriological water quality for the initial monitoring required for all new natural public swimming areas.

61‑50.D.6

Revised to replace fecal coliform with E. Coli as the indicator of bacteriological water quality for routine monitoring required for all existing natural public swimming areas.

**Instructions:** Amend Regulation 61-50 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

61‑50. Natural Public Swimming Areas.

**Amend 61‑50.C.7 to read:**

 7. **Initial Monitoring.** The facility owner or his/her designated agent shall conduct initial bacteriological sampling of the swimming area. All samples collected must be analyzed by a certified laboratory in accordance with an EPA approved methodology resulting in the enumeration of E. coli bacteria using most probable number (MPN) methodology. Samples shall be collected in a location representative of the swimming area and a minimum of one (1) of the samples shall be collected following a rainfall event. Based on a statistically sufficient number of samples (generally not less than five (5) samples equally spaced over a 30‑day period), the geometric mean of the indicated bacterial densities shall not exceed the following:

E. coli sample: 126 MPN per 100 ml;

nor shall more than 10% of the total samples exceed 349 MPN per 100 ml.

**Amend 61‑50.D.6 to read:**

 6. **Routine Monitoring.** Routine monitoring shall be conducted by the facility owner or their designated agent. All samples collected must be analyzed by a certified laboratory in accordance with an EPA approved methodology resulting in the enumeration of E. coli bacteria using most probable number (MPN) methodology. The following single sample limit shall apply as the acceptable routine sample standard.

 a. E. coli sample: A single sample maximum of 349 MPN per 100 ml.

 b. Samples shall be collected in a location representative of the swimming area. No less than two sampling events shall be conducted every month while the swimming area is in operation. Sampling events shall occur no more than fourteen (14) days apart.

 c. The Department shall be notified by the facility owner or his/her designated agent should a sample result exceed the limit as established in paragraph 6(a) of this section. This notification must be received within 24 hours of an owner or his/her designated agent’s knowledge of the exceeded sample limit.

 d. A copy of results from all samples collected shall be submitted to the Department by the end of every month.

**Fiscal Impact Statement:**

 The amendments will have no substantial fiscal or economic impact of the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed.

**Statement of Need and Reasonableness:**

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. 1976 Code Section 1‑23‑115(C)(1)‑(3) and (9)‑(11):

DESCRIPTION OF REGULATION: Regulation 61‑50, *Natural Public Swimming Areas*.

 Purpose: These amendments change the bacteriological water quality indicator in Regulation 61‑50, *Natural Public Swimming Areas,* to E. coli for consistency with Regulation 61‑68, *Water Classifications and Standards*.

 Legal Authority: Regulation 61‑50 is authorized by 1976 S.C. Code Section 44‑1‑140(7)*.*

 Plan for Implementation: The amendments will be incorporated within Regulation 61‑50 upon approval by the General Assembly and publication as final regulations in the *State Register.* Regulation 61-50, to include these latest amendments, will be published on the Department’s Laws and Regulations website and will subsequently be incorporated into Regulation 61-50 in the S.C. Code of Regulations. The amendments will be implemented in the same manner in which the current regulations are implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

 The adoption of these amendments is needed and reasonable because they will make the bacteriological water quality standard for natural public swimming areas consistent with the bacteriological water quality standard for recreational uses in freshwaters established in Regulation 61‑68, *Water Classifications and Standards*.

DETERMINATION OF COSTS AND BENEFITS:

 Internal costs: No cost to the State or its political subdivisions is anticipated by these amendments.

 External costs: There is little or no anticipated costs to the regulated community for implementing these amendments.

UNCERTAINTIES OF ESTIMATES:

 Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

 There is no anticipated effect on the environment or public health from these amendments.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

 There is no anticipated detrimental effect on the environment or public health if these amendments are not implemented.

**Statement of Rationale:**

 These amendments of Regulation 61-50, *Natural Public Swimming Areas,* are necessary for consistency with Regulation 61‑68, *Water Classifications and Standards*, which sets statewide water quality standards for the classification of water bodies.