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Document No. 4838

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 48‑5‑10 et seq.

61‑67.1. Requirements for State Water Pollution Control Revolving Fund Loan Assistance.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) repeals R.61‑67.1. The regulation describes the process the Department and the former South Carolina Budget and Control Board followed in administering the State Water Pollution Revolving Fund received in federal grants from the Environmental Protection Agency (“EPA”). In 1992, the General Assembly repealed S.C. Code Section 48‑6‑10 et seq. and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (S.C. Code Section 48‑5‑10 et seq.). Passage of the South Carolina Water Quality Revolving Fund Authority Act (“Act”) has rendered R.61‑67.1 obsolete. The Act provides authority for the Department and the South Carolina Water Quality Revolving Fund Authority to administer the South Carolina clean water and drinking water revolving funds program and federal grants received as supplements to the revolving funds from the EPA. The South Carolina Water Quality Revolving Fund Authority comprises the members of the State Fiscal Accountability Authority, with administrative and implementation support from the South Carolina Rural Infrastructure Authority (“RIA”).

Repeal of the regulation will have no impact or implications for the current administration and implementation of the South Carolina Clean Water State Revolving Fund (“CWSRF”). The CWSRF, like its predecessor, the State Water Pollution Revolving Fund under the repealed Title 48, Chapter 6, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The Department and RIA are able to effectively administer and implement the state revolving funds program using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

The Administrative Procedures Act, S.C. Code Section 1‑23‑120(A), requires General Assembly review of this repeal.

The Department had a Notice of Drafting published in the June 22, 2018, *South Carolina State Register*.

Section‑by‑Section Discussion of Repeal:

Regulation 61‑67.1 is repealed in its entirety as it is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6 of the South Carolina Code). Please see the Statement of Need and Reasonableness herein.

**Instructions:**

Repeal R.61-67.1, Requirements for State Water Pollution Revolving Fund Loan Assistance, in the South Carolina Code of Regulations.

**Text:**

61‑67.1. [Repealed].

**Fiscal Impact Statement:**

There are no anticipated new costs associated with the repeal of this regulation to the state or its political subdivisions.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Section 1‑23‑115(C)(1)‑(3) and (9)‑(11):

DESCRIPTION OF REGULATION: 61‑67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance.

Purpose: The Department repeals R.61‑67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance. This regulation is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6 of the South Carolina Code). In 1992, the General Assembly repealed Title 48, Chapter 6 and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (Title 48, Chapter 5).

Legal Authority: 1976 Code Sections 48‑5‑10 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/) provides a summary of and link to this repeal. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the repeal and any associated information.

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

In the interest of good government and efficiency, the Department repeals R.61‑67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance. The regulation describes the process the Department of Health and Environmental Control (“Department”) and the former South Carolina Budget and Control Board followed in administering the State Water Pollution Revolving Fund received in federal grants from the Environmental Protection Agency (“EPA”). In 1992, the General Assembly repealed S.C. Code Section 48‑6‑10 et seq. and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (S.C. Code Section 48‑5‑10 et seq.). Passage of the South Carolina Water Quality Revolving Fund Authority Act (“Act”) has rendered R.61‑67.1 obsolete. The Act provides authority for the Department and the South Carolina Water Quality Revolving Fund Authority to administer the South Carolina clean water and drinking water revolving funds program and federal grants received as supplements to the revolving funds from the EPA. The South Carolina Water Quality Revolving Fund Authority comprises the members of the State Fiscal Accountability Authority, with administrative and implementation support from the South Carolina Rural Infrastructure Authority (“RIA”).

In accordance with the Act, the State Water Pollution Revolving Fund (“SRF”) authorized under the former statute (Title 48, Chapter 6) remains in existence and is now referred to as the Clean Water State Revolving Fund (“CWSRF”). The CWSRF, like the former State Water Pollution Revolving Fund, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The General Assembly amended Title 48, Chapter 5 in 1997 to include the Drinking Water State Revolving Fund (“DWSRF”), which provides low interest loans to public utilities and local governments for public drinking water infrastructure projects. The 1987 amendments to the Federal Water Pollution Act, otherwise known as the Clean Water Act, authorized federal funding for the CWSRF and the former State Water Pollution Revolving Fund. The 1996 amendments to the Safe Drinking Water Act authorized federal funding for the DWSRF. The CWSRF and DWSRF are revolving funds because they receive repayments and interest from the loans made from the funds. Additional money comes into the funds through interest on investments and annual federal grants received from EPA. Repeal of the regulation will have no impact or implications for the current administration and implementation of the CWSRF or DWSRF.

The Department does not propose replacing this regulation with a new regulation. The Department and RIA are able to effectively administer and implement the SRF program using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

DETERMINATION OF COSTS AND BENEFITS:

The Department anticipates no fiscal or economic impact on the state or its political subdivisions and the regulated community by the repeal of this regulation. Repeal of the regulation will have no impact or implications for the current administration and implementation of the South Carolina CWSRF. The CWSRF, like its predecessor, the State Water Pollution Revolving Fund under the repealed Title 48, Chapter 6, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Repealing the regulation will have no effect on the environment and public health. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Repealing R.61‑67.1 has no legal effect, as it has been obsolete since the repeal of S.C. Code Section 48‑6‑10 et seq.

**Statement of Rationale:**

R.61‑67.1 is repealed as it is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6). The General Assembly repealed Title 48, Chapter 6 and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (Title 48, Chapter 5). The Department does not propose replacing this regulation with a new regulation. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.