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Steven G. Kisner  
Secretary



C. Earl Hunter, Commissioner

*Promoting and protecting the health of the public and the environment*

BOARD:  
Henry C. Scott  
M. David Mitchell, MD  
Glenn A. McCall  
Coleman F. Buckhouse, MD

**Minutes of  
S.C. Board of Health and Environmental Control  
Meeting**

**July 9, 2009**

The S.C. Board of Health and Environmental Control met on Thursday, July 9, 2009, at 10:00 a.m. in the S.C. Department of Health and Environmental Control Board Room, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)

The following members were in attendance:

Steven G. Kisner, Secretary  
3<sup>rd</sup> District

Henry C. Scott  
2<sup>nd</sup> District

M. David Mitchell, MD  
4<sup>th</sup> District

Glenn A. McCall  
5<sup>th</sup> District

Mr. Kisner chaired the meeting. Also in attendance were C. Earl Hunter, Commissioner, Carlisle Roberts, Jr., General Counsel, Lisa Longshore, Clerk, department staff and guests. (Attachment 0-2)

Mr. Kisner stated notice of this meeting has been provided to all persons, organizations and news media, which have requested notification, as required by Section 30-4-80(e) of the South Carolina Code of Laws.

**Item 1: Consideration of Board Minutes – May 14 and June 17 minutes - For Approval**  
(Attachment 1-1)

*Mr. McCall moved, seconded by Dr. Mitchell, to approve the minutes as submitted for the May 14 and June 17 meetings. Approved.*

**Item 2: Monthly Award for Excellence** (Attachment 2-1)

Commissioner Hunter recognized the following recipients:

June 2009

Commissioner's Office – AIX/DB2 Project Implementation Team (Mary Bannister, Lynn Braun, Marty Brugh, Randy Burlew, Gene Crocker, Sandy Drake, Lamanda Gaskins, Roger Heck, Jan Janicki, Tony Minter, Donnie Pearson, Tammy Sims, Fran Vincent, Todd Wilkins, Jason Wolfe),

Environmental Quality Control – Jack Pettit;

Health Regulation – Lakeisha Wright;

Health Services – Team Participating in Operations Coastal Watch (Corey Meaux, Don Peace, Ben Ross, Tim Cleveland, Jeremy Wright, Christy Lanford, Sandra Tucker, Leslie Orr, Charles McManus, Roger Hovis, Lisa Fowler, Ruthie Odom, Chad Squires, Wendell Patterson, Ralph Bleasdale, Pattye Davis, Rick Grant, Rodney Stanley, Pam Jones, Andy Rutland, Corky Hardison, Stephen Batts, Vicki Blair, Marcus Clark, Joe Cook, Jay Cox, Jill Diehl, Faye Dorman, Tom Eshelman, Kent Webster, Shawn Williams, Russell Godbolt, Holly Szuchyt, John Fesler, Oiling Fulmer, Fred Gowans, Alex Hawkins, Willie Ann Hucks, Greg King, Adam Lesley, Jeffrey Lowder, Keith McKinney, Sarah Moorman, Melissa Morrison, Carie Nobles, Michael Paitsel, Bea Powell, Tom Russo, Robin Sellers, Robert Anderson, Robert Ball, MD, Raymond Bartee, Jeremy Bishop, Bob Colbourne, Corey Craig, Stuart Crosby, Trae Simmons, Brandon Stephens, David Struthers, Richard Threatt, Ben (Brenda) Tolomea, Lance Lovins, James Reynolds, Dana Millett, Paul Mitchell, Nick Davidson, Julie Dimitrov, Tom Fabian, MD, Roscia Hardee;

Region 1 Public Health Office – Cynthia Price, RN;

Region 2 Public Health Office – James Crocker, Derrick Lancaster and Millie Wyse, RN;

Region 3 Public Health Office – Mary Lightner;

Region 4 Public Health Office – Sumter County WIC Administrative Staff (Susan Moye, Rhonda Ahtonen, Jessica Cook, Brenda Fonteyne, Rutha Holley, Carolyn Robertson, Patricia Robertson, Monique Sanders Margie Vaughn;

Region 5 Public Health Office – Jeanette Barton;

Region 6 Public Health Office – Paula Johnson;

Region 7 Public Health Office – Miriam Wilchanovsky, APRN;

Region 8 Public Health Office – Madie Orage-Green;

Ocean and Coastal Resource Management – Jason McMaster.

July 2009

Commissioner's Office – Donna Davis,

Environmental Quality Control – Donna Rowe;

Health Regulation – Margaret Rummell;

Health Services – Catherine Beckham;

Region 1 Public Health Office – Coleman Tanner;

Region 2 Public Health Office – Patty Burlison, Wanda Fong, Tia Arnold, Jannette DeJesus, Martha Sontag;

Region 3 Public Health Office – Dottie Terrell, APRN;

Region 4 Public Health Office – Jenna Deaver;

Region 5 Public Health Office – CRS Team (Beverlyn Davis, Brenda Evans, LMSW, Dorthy Hollis, Angie Hutto, RN and Amy Lowder, RN);  
Region 6 Public Health Office – Keith McKinney;  
Region 8 Public Health Office – Elba Rivera, RN, BSN.

Commissioner Hunter reported on the following awards presented to the agency or staff members:

1. Eco-Jeopardy won the Emmy for Outstanding Achievement in Youth Programming at the National Academy of Television Arts and Sciences Southeast Region (Attachment 2-2);
2. Robert (Bob) W. King, Jr., Deputy Commissioner for Environmental Quality Control, received the 2009 American Council of Engineering Companies of S.C. (ACEC-SC) Public Service Award for his long record of state, regional and national service in the environmental field;
3. George Madlinger, Wetland Section Project Manager, OCRM for contributions to the success of environmental programs at military installations in SC, especially with Marine Corps Recruit Depot, Parris Island and Marine Corps Air Station, Beaufort presented by U.S. Department of Defense.

The Board extended its thanks to all recipients.

**Item 11: Final Review Conference – Docket No. 09-RFR-43, SC Coastal Conservation League and American Rivers v. SCDHEC and Duke Energy Carolinas, LLC** (Attachment 11-1)

Item 11 was taken up next. Mr. Roberts introduced the matter to the Board. Mr. Stephen Hightower, Esquire, represented the Department. Mr. James Potter represented Duke Energy Carolinas, LLC. Ms. Julie Youngman, Esquire, and Chris DeScherer, Esquire, represented the South Carolina Coastal Conservation League and American Rivers.

After presentations and discussion, *Mr. McCall moved, seconded by Mr. Scott, to go into Executive Session for the purpose of receiving legal advice relating to the matter at hand. Approved.*

While in Executive Session, no actions were taken.

*Mr. McCall moved, seconded by Scott, to reverse the Department decision and deny the 401 Water Quality Certification for the Catawba-Wateree Hydroelectric Project. Approved.*

**Item 3: Request for a third six-month extension of Certificate of Need SC-07-45 issued to Grand Strand Memorial Center for construction of a new bed tower to consolidate and enlarge the cardiovascular services area, addition of 50 general hospital beds for a total of 269 general hospital beds, expansion of the emergency department and addition of a 64-slice CT scanner** (Attachment 3-1)

Ms. Beverly Brandt, Director, Bureau of Health Facilities and Services Development, gave a status of the project to date.

***Mr. McCall moved, seconded by Dr. Mitchell, to find that Grand Strand Regional Medical Center of Horry County has demonstrated substantial progress and to approve an additional six-month extension to implement Certificate of Need SC 07-45. Approved.***

**Item 4: Administrative and Consent Orders issued by Environmental Quality Control**  
(Attachment 4-1)

Mr. King stated thirty-eight (38) orders had been issued with penalties of \$330,507.

After discussion, ***the Board accepted this item as information.***

**Item 5: Orders issued by the Office of Ocean and Coastal Resource Management**  
(Attachment 5-1)

Ms. Carolyn Boltin-Kelly stated ten (10) actions had been taken with penalties of \$116,000.

***The Board accepted this item as information.***

**Item 6: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation** (Attachment 6-1)

Mr. Ken Moore, Health Regulation Liaison, stated five (5) actions had been taken with a penalties of \$60,480.

After discussion, ***the Board accepted this item as information.***

**Item 7: Status Report – Environmental Fees and Time Frames** (Attachment 7-1)

Mr. Mike Rowe, Director, EQC Division of Research and Planning, presented the quarterly report as required by Regulation 61-30.

After discussion, ***the Board accepted this item as information.***

**Item 8: Proposed Amendment of R.61-79, Hazardous Waste Management Regulations, published in Federal Register between July 1, 2007 and June 30, 2008, Adoption to reflect less stringent Federal Regulations, Legislative Review is Required** (Attachment 8-1)

Mr. Richard Haynes, Director, Division of Waste Management, Environmental Quality Control, presented this item. The Department proposes to amend R.61-79 to adopt three rules to maintain conformity with federal regulations. These amendments will be less stringent than the previous federal equivalent and will modify the current state regulations. Legislative review is

required because, while the changes will not make South Carolina less stringent than federal initiatives, the changes will be less stringent than current South Carolina regulations. The rules proposed for adoption include the following: Rule (1) The Regulation of Oil-Bearing Hazardous Secondary Materials Processed in a Gasification System to Produce Synthesis Gas. Rule (2) National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). Rule (3) Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. Site Specific Inspection Checklist: The Department is also proposing to amend R.61-79 to reinsert a state requirement under R.61-79.270 Subpart B Permit Application, at 270.10 - General Application Requirements pursuant to 40 CFR 270. This regulation requires a site-specific inspection checklist for use in compliance inspections.

*Mr. McCall moved, seconded by Mr. Scott, to grant initial approval to publish a Notice of Proposed Regulations in the State Register, to provide opportunity for public comment, to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.*

**Item 9: Proposed Revision of Regulation 61-96, Athletic Trainers, Legislative review is required** (Attachment 9-1)

Mr. Don Whiteley, Health Regulation EMS and Athletic Trainer Programs, presented this item to the Board. Regulation 61-96, *Athletic Trainers*, was last revised in June of 1993. Since that time, there have been changes in South Carolina statutes as well as changes in national scope that have necessitated amendment of these regulations in order to make the regulation more up-to-date. S.C. Code Ann. Section 1-23-120 (1976, as amended) of the Administrative Procedures Act requires state agencies to perform a review of their regulations every five years and update them, if necessary. As a result of the review of this regulation, due to the need to update, the Department is proposing to revise R.61-96.

*Dr. Mitchell moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulations in the State Register, to provide opportunity for public comment, to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.*

**Item 10: Proposed Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina State Implementation Plan (SIP). Legislative review is not required** (Attachment 10-1)

Mr. Robbie Brown, EQC Director of Air Planning, Development and Outreach, presented this item. The Department proposes to amend R.61-62, *Air Pollution Control Regulations and Standards*, to incorporate new Federal requirements pursuant to 40 CFR 50, 60, 63 and 72. Pursuant to S.C. Code Section, 1-23-120(H)(1), the proposed amendments are necessary to maintain consistency with Federal rules and will not require legislative review. Among the revisions being proposed are amendments to R. 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards (NSPS)*, R. 61-62.61, *National Emission*

*Standards for Hazardous Air Pollutants (NESHAP), R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and R. 61-62.72, Acid Rain, to incorporate recent Federal amendments promulgated during the period from January 1, 2008, through December 31, 2008. The Department also proposes to amend R. 61-62.5, Standard No. 2, Ambient Air Quality Standards, to adopt the Federal change in the National Ambient Air Quality Standards (NAAQS) for the 8-hour primary and secondary standard for ozone, and rolling 3-month average primary and secondary standard for lead.*

***Dr. Mitchell moved, seconded by Mr. Scott, to grant initial approval to publish a Notice of Proposed Regulations in the State Register, to provide opportunity for public comment, to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.***

Mr. Kisner announced that item #12 had been withdrawn from the agenda.

Item 12: Uniform Enforcement Policy, Environmental Quality Control, was postponed to a future Board meeting.

**Item 13: Draft Environmental Quality Control (EQC) Mercury Reduction Strategy**  
(Attachment 13-1)

Ms. Shelly Wilson, EQC Liaison, presented this item. Although fishing and fish consumption are beneficial for health, recreation, and tourism, some species of fish in some water bodies of South Carolina pose a mercury risk to the public if consumed above recommended amounts. Mercury risk from fish is not a hazard if individuals follow consumption advisories issued by the Department. However, mercury contamination in fish puts a considerable burden on the public to be knowledgeable of safe consumption advisories and on the Department to monitor fish contamination levels, develop advisories, and maintain public outreach. South Carolina is not alone in this issue; all 50 states issue some sort of mercury advisory to caution people about limiting consumption of certain fish species. Despite cautionary advisories, the Centers for Disease Control and Prevention estimate that about 6% of childbearing-aged women in the United States have a blood mercury level that is unsafe for a developing fetus. The National Research Council has estimated that each year, about 60,000 children might be born in this country with permanent, irreversible neurological problems due to mercury exposure before birth. On a nation-wide basis, it is uncertain how effectively consumption advisories are followed to reduce risk to the most sensitive population, the very young, as well as to the general public. Mercury risk can also be encountered through other scenarios, such as exposure from broken or improperly disposed mercury-containing products. The general primary-health risk to humans from mercury remains through consumption of contaminated fish. Mercury burden in the environment is a global concern. Although mercury exists naturally in the environment, human activities have increased the exposure potential of this element since the beginning of the industrialized period. The biggest human mercury contributions have come from combustion of fossil fuel and waste. Once emitted to the environment from human and natural sources, mercury continually cycles through air, land, and water and changes form in ways that are very complex and difficult to monitor. South Carolina is affected by cumulative emissions from the past and present. This cumulative contribution is

the result of local, regional, and global sources. Although South Carolina will continue to be impacted by emissions from around the globe, the Department believes that mercury reduction efforts in the State will reduce risk from mercury exposure.

After discussion, *the Board accepted this item as information.*

**Item 14: Handling of Request for Final Review requiring action by August 13, 2009 (RFR Docket No. 09-RFR-50 through 09-RFR-58)** (Attachment 14-1)

Mr. Kisner asked if anyone wished to conduct review conferences on any of the pending Requests for Review.

*Mr. McCall moved, seconded by Mr. Scott, to conduct a final review conference on Docket No. 09-RFR-54, South Carolina Department of Transportation v. SCDHEC and John W. Jenrette, Jr., and to decline to conduct Final Review Conferences on the remaining requests. Approved.*

**Item 15: Agency Affairs**

Commissioner Hunter gave an update on the 2009-2010 Budget and budget cuts.

**Item 16: Legal Report**

Mr. Roberts deferred his report until the August meeting.

*Mr. Scott moved, seconded by Dr. Mitchell, to adjourn. Approved.*

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,

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Steven G. Kisner  
Secretary of the Board

Minutes approved this 13<sup>th</sup> day of August 2009.

ATTEST:

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Paul C. Aughtry, III  
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 May 14 and June 17, 2009 meeting minutes
- 2-1 Monthly Award for Excellence Recipients for June and July 2009
- 2-2 Eco-Jeopardy
- 3-1 Request for third six-month extension of CON SC-07-45, Grand Strand Memorial
- 4-1 Administrative and Consent Orders by Environmental Quality Control
- 5-1 Orders issued by Office of Ocean and Coastal Resource Management
- 6-1 Administrative Orders, Consent Orders and Sanction Letters by Health Regulation
- 7-1 Status Report – Environmental Fees and Time Frames
- 8-1 Proposed Amendment of R.61-79, Hazardous Waste Management Regulations
- 9-1 Proposed Revision of Regulation 61-96, Athletic Trainers
- 10-1 Proposed Amendments of Regulation 61-62, Air Pollution Control Regulations
- 11-1 Final Review Conference – SCCCL and American Rivers v. SCDHEC and Duke Energy Carolinas
- 13-1 Draft Environmental Quality Control Mercury Reduction Strategy
- 14-1 Handling of Requests for Final Review requiring action by August 13, 2009