

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
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**

August 13, 2009

The S.C. Board of Health and Environmental Control met on Thursday, August 13, 2009, at 10:00 a.m. via conference call 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:

Paul C. Aughtry, III, Chairman
Member-at-large

Edwin H. Cooper, III, Vice-Chairman
1st District

Steven G. Kisner, Secretary
3rd District

Henry C. Scott
2nd District

M. David Mitchell, MD
4th District

Glenn A. McCall
5th District

Coleman F. Buckhouse, MD
6th District

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

Mr. Aughtry 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 – July 9 minutes - For Approval (Attachment 1-1)

Dr. Buckhouse moved, seconded by Mr. McCall, to approve the minutes as submitted for the July 9 meeting. Approved.

Item 2: Monthly Award for Excellence for August 2009 (Attachment 2-1)

Commissioner Hunter recognized the following recipients:

Commissioner's Office – CARS to SIPS Conversion Team (John Marcucci (BFM), Hope Ramsey (BFM), Rick Reher (BIS), Greg Fowler (BIS);
Environmental Quality Control – Infectious Waste Inspection Team (Kim Clyburn, Margie Davis, Arlene Wilkes, and Leslie Yasinsac);
Health Regulation – Abigail James;
Health Services – Mary-Kathryn Craft;
Region 1 Public Health Office – Ann Smith, RN;
Region 2 Public Health Office – Todd Liveright;
Region 3 Public Health Office – Larry Estridge;
Region 4 Public Health Office – Jenni Brown;
Region 5 Public Health Office – Denise Cone, Debbie Lotz, Toni O'Cain and Kathryn Zeigler-Gramling;
Region 6 Public Health Office – Mary Thomas;
Region 7 Public Health Office – Lathia "Beverly" Brown;
Region 8 Public Health Office – Multi-state Learning Collaborative-3 (MLC-3) Tobacco Collaborative Team (Sheila Silon, RN, Janice Foster, Teresa Debouch, RN, Gail Temple, RN, Karen Oehring, RN, Gale Brazell, RN, LaWanda Stewart, Johnelle Gooden, Karen Burke, Cassandra Shark, Deqanda Green, Jenny Aquilar-Diaz, Gerri Buhler, RN, Crystal Ferguson, Tammy B. Washington, Terry McCrary, RN, Wanda Mixon, Berneta Grant, Lilean Ramirez, Kathy Goen, RN, Matt Petrofes, Debbie McCoy, LMSW, Westley Byrne, Dr. PH, NP, Susan Eviston, Nick Davidson, T. Gale Parker, Linda Summerall, RN, MSN, Sandy Polite.

The Board extended its thanks to all recipients.

Item 3: Request for a third six-month extension of Certificate of Need SC-07-36 issued to Bamberg County Memorial Hospital for the construction of a fifty-nine (59) bed replacement hospital with two (2) operating rooms (ORs), endoscopy suite, radiology department with a CT scanner and mobile MRI one day/week (Attachment 3-1)

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

Dr. Buckhouse moved, seconded by Mr. Scott, to find that Bamberg County Memorial Hospital has demonstrated substantial progress and to approve an additional six-month extension to implement Certificate of Need SC 07-36. Approved.

Item 4: Public Hearing and Request for Final Approval - Proposed Amendments of Regulation 61-62, Air Pollution Control Regulations and Standards, to Revise Regulation 61.62.60, South Carolina Designated Facility Plan and New Source Performance Standards, Regulation 61-62.72, Acid Rain and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, State Register Document No. 4070, Legislative review is required (Attachment 4-1)

Mr. Robbie Brown, EQC Director of Air Planning, Development and Outreach, presented this item. The Department proposes to amend R. 61-62, by removing Federal requirements from the existing regulations due to decisions of the Court of Appeals to vacate rules. The Department proposes to amend R. 61-62.60 and R. 61-62.72 by removing all provisions of the State CAMR regulation. The Department also proposes to amend R. 61-62.63, by removing all provisions of the aforementioned MACT rules published in the *Federal Register* May 16, 2003, and September 13, 2004.

A public hearing was conducted. (Attachment 4-2)

Mr. Scott moved, seconded by Mr. McCall, to find for the need and reasonableness of the proposed regulation and approve it for submission to the Legislature for review. Approved.

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 4-3)

Item 5: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-58, State Primary Drinking Water Regulations, State Register Document No. 4079, Legislative review is not required (Attachment 5-1)

Mr. Doug Kinard, Director, Division of Drinking Water Protection, presented this item to the Board. The US Environmental Protection Agency (USEPA) promulgated a final rule in the Federal Register at 40 CFR Parts 141 and 142 on October 10, 2007 known as Lead and Copper: Short Term Regulatory Revisions and Clarifications. The rule is intended to make minor changes in sampling procedures and lead service line replacement requirements and enhance public education requirements under the Lead and Copper Rule. As required by Section 1413 of the Safe Drinking Water Act (SDWA), the State must revise its public drinking water program to include regulations that are no less stringent than the federal requirements in order to retain primary enforcement responsibility for the public drinking water supervision program. Since the changes presented in this item are required by changes to the National Primary Drinking Water Regulations, they do not require approval by the state legislature.

A public hearing was conducted. (Attachment 5-2)

Dr. Buckhouse moved, seconded by Dr. Mitchell, to find for the need and reasonableness of the proposed regulations and approve them for publication in the State Register. Approved.

A verbatim transcript of these proceedings is included as part of the public record.
(Attachment 5-3)

Item 6: Proposed Amendments to Regulation 61-62.1, Definitions and General Requirements, and the South Carolina Implementation Plan (SIP), Legislative review is required (Attachment 6-1)

Mr. Brown presented this item. The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Air Emissions Reporting Requirements (AERR) in the *Federal Register* on December 17, 2008. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), the EPA has long required SIPs to provide for the submission by states to the EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors. The purpose of the AERR is to harmonize reporting requirements under the NO_x SIP Call, Clean Air Interstate Rule (CAIR), and Consolidated Emissions Reporting Rule (CERR). It also removes and simplifies some existing emissions reporting requirements, which the EPA believes are not necessary or appropriate; allows states to better track changes in source emissions, shutdowns, and startups over time by using the 40 CFR 70 definition of major source for point source reporting; deletes a requirement for states to report biogenic emissions; and offers states the option of reporting emissions for certain source categories. The Department proposes to amend Regulation 61-62.1, *Definitions and General Requirements*, and the South Carolina State Implementation Plan (SIP) to make the necessary revisions to comply with the new Federal emissions reporting requirements. The Department is also proposing to amend state level reporting requirements to facilitate the collection of more detailed process level emissions inventory data (to include hazardous air pollutants (HAP) data) to insure that the National Emissions Inventory (NEI) maintained by the EPA contains the best available data.

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

Item 7: Administrative and Consent Orders issued by Environmental Quality Control
(Attachment 7-1)

Robin Stephens, Assistant to the Deputy Commissioner, Environmental Quality Control stated twenty-nine (29) orders had been issued with penalties of \$120,510.

The Board accepted this item as information.

Item 8: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 8-1)

Mr. Ken Moore, Health Regulation Liaison, stated three (3) actions had been taken with a penalties of \$3,000.

The Board accepted this item as information.

Item 9: Orders issued by the Office of Ocean and Coastal Resource Management

(Attachment 9-1)

Rheta Geddings, Director External Affairs and Enforcement, Ocean and Coastal Resource Management, stated four (4) actions had been taken with penalties of \$5,700.

The Board accepted this item as information.

Item 10: Administrative and Consent Orders issued by the Bureau of Environmental Health

(Attachment 10-1)

Mike Longshore, Director of Enforcement and Regulatory Development, Bureau of Environmental Health, stated twenty-one (21) actions had been taken penalties of \$8,500.

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

Item 11: Handling of Request for Final Review requiring action by September 10, 2009

(RFR Docket No. 09-RFR-60 through 09-RFR-68) (Attachment 11-1)

Mr. Roberts stated that Docket No. 09-RFR-66 and 09-RFR-67 had been withdrawn.

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

Mr. Cooper moved, seconded by Dr. Buckhouse, to conduct a final review conference on Docket No. 09-RFR-65, Northeast Columbia Diagnostic Imaging d/b/a Innervision MRI and Imaging v. SCDHEC and to decline to conduct Final Review Conferences on the remaining requests. Approved.

Item 12: Agency Affairs

Appointment of Members and Chairperson for the South Carolina Stroke Systems

of Care Study Committee (Attachment 12-1)

Ms. Joy Brooks, Health Systems Coordinator, Heart Disease and Stroke Prevention Division, reviewed the legislative mandate requiring the establishment of this committee with the charge of the following: developing a plan for a statewide stroke system of care which must include, among other things, an urgent response system, coordination of treatment, methods for evaluating the impact of strokes in our state, a strategy for reducing stroke disparities among minorities and underserved populations, and public awareness programs for stroke education. The Committee is to be comprised of 18 members representing organizations and health care disciplines involved in stroke treatment and prevention.

Dr. Buckhouse moved, seconded by Mr. Cooper, to approve the nominations and committee chairperson as presented. Approved.

Mr. Aughtry asked Mr. Kisner to give an update on the status of the Savannah River Water Study Committee.

Commissioner Hunter gave updates on H1N1 and the budget.

Item 13: Legal Report

Mr. Roberts asked for an executive session, in order to update the Board about matters in litigation.

Mr. Scott moved, seconded by Dr. Mitchell, to go into Executive Session for discussion of matters in litigation under the attorney-client privilege. Approved.

While in Executive Session, no actions were taken.

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

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

Respectfully submitted,

Steven G. Kisner
Secretary of the Board

Minutes approved this 17th day of September 2009.

ATTEST:

Paul C. Aughtry, III
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 July 9, 2009 meeting minutes
- 2-1 Monthly Award for Excellence Recipients for August 2009
- 3-1 Request for third six-month extension of CON SC-07-36, Bamberg County Memorial Hospital
- 4-1 Public Hearing – Proposed Amendments of R.61-62, Air Pollution Control Regulations and Standards
- 4-2 Sign-in Sheet for public hearing
- 4-3 Verbatim transcript
- 5-1 Public Hearing – Proposed Amendments of Regulation 61-58, State Primary Drinking Water Regulations
- 5-2 Sign-in Sheet for public hearing
- 5-3 Verbatim transcript
- 6-1 Proposed Amendments of R.61-62.1, Definitions and General Requirements and the South Carolina Implementation Plan
- 7-1 Administrative and Consent Orders issued by Environmental Quality Control
- 8-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 9-1 Orders issued by Ocean and Coastal Resource Management
- 10-1 Administrative and Consent Orders issued by the Bureau of Environmental Health
- 11-1 Handling of Requests for Final Review requiring action by September 10
- 12-1 Appointment of Members and Chairperson for the South Carolina Stroke Systems of Care Study Committee