

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

February 10, 2011

The S.C. Board of Health and Environmental Control met on Thursday, February 10, 2011, 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
- Steven G. Kisner, Secretary  
3rd District
- Henry C. Scott  
2nd District
- M. David Mitchell, MD  
4th District
- Coleman F. Buckhouse, MD  
6th District

Also in attendance were C. Earl Hunter, Commissioner, Carlisle Roberts, Jr., General Counsel, Ms. 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 - January 6, 2011, minutes - For Approval (Attachment 1-1)**

*Dr. Buckhouse moved, seconded by Mr. Scott, to approve the minutes as submitted for the January 6 Board meeting. Approved.*

## **Item 2: Monthly Award for Excellence for February 2011 (Attachment 2-1)**

Commissioner Hunter recognized the following recipients:

- Environmental Quality Control - Matthew Polkowsky;
- Health Services - Joy Brooks and the Heart Disease and Stroke Prevention Division Staff (Joy Brooks, Stacia Bell, Elizabeth Crick, Anthony Lee, Kay Lowder, Teresa Robinson);
- Region 1 Public Health Office - Harriet Guy, RN;
- Region 2 Public Health Office - Lorna Williams;
- Region 3 Public Health Office - Laura Joyner, RN;
- Region 4 Public Health Office - Susan Matthews;
- Region 5 Public Health Office - Dianne Williams;
- Region 6 Public Health Office - William (Bill) Collins;
- Region 8 Public Health Office - Susan Bishop.

The Board extended its thanks to all recipients.

### **Item 3: Orders issued by Ocean and Coastal Resource Management (Attachment 3-1)**

Ms. Rheta DiNovo, Assistant Director, Regulatory, stated two (2) actions had been taken with penalties of \$1,475.

*The Board accepted this item as information.*

### **Item 4: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 4-1)**

Ms. Belinda Bradshaw, Bureau of Radiological Health, stated six (6) actions had been taken with penalties of \$39,300.

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

### **Item 5: Administrative and Consent Orders issued by Environmental Quality Control (Attachment 5-1)**

Ms. Robin Stephens, Compliance Assistance and Enforcement, stated nineteen (19) actions had been taken with penalties of \$61,025.

*The Board accepted this item as information.*

### **Item 6: Status Report - Environmental Fees and Time Frames (Attachment 6-1)**

Mr. Mike Rowe, Director, Division of Research and Planning, presented this informational item which represents a report for the first quarter of the 2010-2011 fiscal year with a fiscal year summary as required by Regulation 61-30, Environmental Protection Fees.

*The Board accepted this item as information.*

Chairman Aughtry announced that agenda item 7 had been deferred.

### **Item 8: Public Hearing and Request for Final Approval - Proposed Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, to Revise R.61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard 7.1, Nonattainment New Source Review (NSR); and the South Carolina State Implementation Plan (SIP), State Register Document No. 4160, Legislative review**

## **is not required (Attachment 8-1)**

Mr. Robert Brown, Director, Division of Assessment, Innovations and Regulation, presented this item to the Board. The Department proposes to amend R. 61-62.5, Standard No. 7, *Prevention of Significant Deterioration*; R. 61-62.5, Standard No. 7.1, *Nonattainment New Source Review (NSR)*; and the SIP to incorporate the provisions of the Phase 2 Ozone Rule and the NSR PM2.5 Implementation Rule. The Department also proposes to add a nonsubstantive clarification to correct a scrivener's error. Pursuant to the Phase 2 Ozone Rule (70 FR 71612) and the NSR PM2.5 Implementation Rule (73 FR 28321), the proposed changes are federally mandated; therefore, pursuant to S.C. Code Ann. Section 1-23-120(H)(1), General Assembly review is not required.

A public hearing was conducted. (Attachment 8-2)

*Dr. Buckhouse moved, seconded by Mr. Scott, to find for the need and reasonableness of the proposed regulation and SIP and approve it for publication in the State Register as a final regulation. Approved.*

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 8-3)

## **Item 9: Public Hearing and Request for Final Approval - Proposed Amendment of Regulation 61-68, Water Classifications and Standards, State Register Document No. 4161, Legislative review is required (Attachment 9-1)**

Ms. Heather Preston, Director, Division of Water Quality, presented this item to the Board. Regulation 61-68 was promulgated pursuant to Section 48-1-10 of the 1976 Code. R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected; general rules and water quality criteria to protect classified and existing water uses; and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires that the Department review, and amend as necessary, this regulation once every three years in order to incorporate the most recently published Federal criterion recommendations and guidance. Hence, this review process is often referred to as the "triennial review." R.61-68 was last amended on April 25, 2008.

A public hearing was conducted. (Attachment 9-2)

*Mr. Scott moved, seconded by Dr. Mitchell, 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 9-3)

## **Item 10: Handling of Request for Final Review requiring action by March 10, 2011 (RFR Docket No. 11-RFR-3 through 11-RFR-5) (Attachment 11-1)**

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

Mr. Roberts stated that Docket No. 11-RFR-5 had been withdrawn.

*Dr. Mitchell moved, seconded by Mr. Kisner, to decline to conduct any review conferences. Approved.*

## **Item 11: Agency Affairs**

Commissioner Hunter updated the Board on the budget.

## **Item 12: Legal Report**

Mr. Roberts updated the Board on legal matters and asked for an Executive Session for discussion of matters in litigation under the attorney-client privilege and an employment matter concerning an employee.

Mr. Kisner moved, seconded by Dr. Buckhouse, moved to go into Executive Session. Approved. While in Executive Session, no actions were taken.

*Mr. Scott moved, seconded by Dr. Buckhouse, 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 10<sup>th</sup> day of March 2011.

ATTEST:  
Paul C. Aughtry, III  
Chairman

### Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 January 6, 2011 minutes
- 2-1 Monthly Award for Excellence Recipients for February 2011
- 3-1 Orders issued by the Office of Ocean and Coastal Resource Management
- 4-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 5-1 Administrative and Consent Orders issued by Environmental Quality Control
- 6-1 Status Report - Environmental Fees and Time Frames
- 8-1 **Public Hearing** - Proposed Amendments to R. 61-62, Air Pollution Control Regulations and Standards
- 8-2 Sign-in sheet for Public Hearing
- 8-3 Verbatim Transcript
- 9-1 **Public Hearing** - Proposed Amendment of R.61-68, Water Classifications and Standards
- 9-2 Sign-in sheet for Public Hearing
- 9-3 Verbatim Transcript
- 10-1 Handling of Requests for Final Review requiring action by March 10, 2011, Docket No. 11-RFR-3 through Docket No. 11-RFR-5