

BOARD:
Allen Amsler
Chairman

Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
Charles M. Joye II, P.E.
L. Clarence Batts, Jr.
John O. Hutto, Sr., MD
William Lee Hewitt, III

Minutes of the June 12, 2014, meeting of the South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, June 12, 2014, at 10:00 a.m. in the Board Room at the South Carolina Department of Health and Environmental Control building, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Allen Amsler, Chairman
Member-At-Large

Mark Lutz, Vice-Chairman
1st District

Ann B. Kirol, DDS, Secretary
5th District

R. Kenyon Wells
2nd District

Charles M. Joye, II, P.E. by telephone
3rd District

L. Clarence Batts
4th District

William Lee Hewitt, III
7th District

The following member was absent:

John O. Hutto, Sr., MD
6th District

Also in attendance were Catherine B. Templeton, Director; W. Marshall Taylor, Jr., General Counsel; Lisa L. Longshore, Clerk; Department staff and members of the public. (Attachment 0-2)

Chairman Amsler called the meeting to order and stated notice of this meeting had 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: Minutes of May 8 meeting (Attachment 1-1)

Mr. Wells moved, seconded by Mr. Batts, to approve the minutes as submitted for the May 8 meeting. The Board voted and Motion carried.

Item 2: Administrative and Consent Orders issued by Environmental Affairs (Attachment 2-1)

Ms. Robin Stephens, Assistant to the Deputy Director, EQC, stated two (2) Administrative Orders and forty-nine (49) Consent Orders had been issued with total penalties of \$112,795.

The Board accepted this item as information.

Item 3: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 3-1)

Ms. Melinda Bradshaw, Health Regulation Liaison, stated five (5) Consent Orders had been issued with total penalties of \$61,000.

The Board accepted this item as information.

Item 4: Appointment of six members to the Emergency Medical Services for Children (EMSC) Advisory Committee (Attachment 4-1)

Ms. Bradshaw presented this item to the Board.

S.C. Code §44-61-350 establishes an Emergency Medical Services for Children Advisory Committee to advise the department on matters concerning preventative, pre-hospital, hospital, rehabilitative, and other post-hospital medical care for children. Six of the committee members are required to be appointed by the South Carolina Board of Health and Environmental Control, and the remaining three members are designated staff.

After discussion, Mr. Batts moved, seconded by Mr. Lutz, to appoint Alison Burns, Aaron Dix, Dr. Kevin Polley, Jacqueline Stoller, Dr. Christian J. Streck and Crystal Youmans to the EMS for Children Advisory Committee. The Board voted and the Motion carried.

Item 5: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-30, Environmental Protection Fees, State Register Document No. 4460, Legislative review is not required (Attachment 5-1)

Mr. Robbie Brown, Director, Division of Air Assessment and Regulation, presented this item to the Board.

The South Carolina Department of Health and Environmental Control (Department) proposes to amend Regulation 61-30.G(3), Schedule of Air Quality Fees, to increase fees in order to cover the cost of its Title V permit program. The Clean Air Act requires that states establish fees to

administer the Title V permit program that are sufficient to cover all reasonable (direct and indirect) costs. These fees should cover the costs of administering the program and include those activities listed in Section 502(b)(3)(a) of Title V of the 1990 amendments to the Federal Clean Air Act.

The Clean Air Act, 42 U.S.C. 7401, et seq., sets forth the minimum requirements for air quality in the United States and requires states to develop and maintain a Title V permit program. 40 C.F.R. Section 70.9(b)(1) provides "...[t]he State program shall establish a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs."

S.C. Code Ann. Section 1-23-120(H), provides that amendments made to comply with federal law do not require legislative review. Therefore, this amendment, because it is being promulgated to comply with federal law, does not require legislative review.

A public hearing was conducted with several persons in attendance who spoke on this regulation amendment. (Attachment 5-2)

After discussion, Mr. Lutz moved, seconded by Mr. Batts, to find for the need and reasonableness of the amended Regulation 61-30, Environmental Protection Fees, and approve it for publication as final in the State Register. The Board voted and the Motion carried.

A verbatim transcript of this proceeding is included as part of the permanent record. (Attachment 5-3)

Item 6: Proposed Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP), Legislative review is not required (Attachment 6-1)

Mr. Robbie Brown, Director, Division of Air Assessment and Regulation, presented this item to the Board.

Pursuant to the Clean Air Act, 42 U.S.C. Sections 7407, 7410, 7413, and 7416, and the South Carolina Pollution Control Act, Section 48-1-10 et seq., the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations. 42 U.S.C. Section 7416. The United States Environmental Protection Agency ("EPA") promulgated amendments to national air quality standards in 2013. The recent federal amendments include clarification, guidance and technical revisions to state implementation plan ("SIP") requirements promulgated pursuant to 42 U.S.C. 7410 & 7413, New Source Performance Standards ("NSPS") mandated by 42 U.S.C. 7411, and federal National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Source Categories.

The Department therefore proposes to amend Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to codify recent federal amendments to the National Ambient Air Quality Standards for Fine Particulate Matter ("PM2.5"), Sulfur Dioxide ("SO2"), and Nitrogen Dioxide

("NO2") set forth in 40 C. F. R. Part 50. Additionally, the Department proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Source Categories, to codify federal amendments to these standards promulgated from January 1, 2013, through December 31, 2013.

The Department proposes to amend Regulation 61-62.1, Definitions and General Requirements, to incorporate amendments to the definition of Volatile Organic Compounds ("VOCs") in 40 C.F.R. Part 51.

Note: State Register Document 4388 will amend the definition of Volatile Organic Compounds to strike the majority of the text contained in the definition for Volatile Organic Compounds and to cite 40 C.F.R. 51.100(s)(1) (the federal definition). Document 4388 has been approved by the General Assembly and is expected to be effective upon publication in the State Register on June 27, 2014. Upon publication as final in the State Register, this proposed revision will be rendered unnecessary and obsolete and removed from final consideration by the Board.

The Department is also proposing other changes to Regulation 61-62 that includes corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the State or its political subdivisions resulting from codification of these amendments to federal law. The State of South Carolina is already reaping the environmental benefits of these amendments.

An Erratum was provided to the Board to remove a paragraph to account for completion of legislative review and expected publication in the State Register of an earlier change to the definition of VOC. (Attachment 6-2)

After discussion, Mr. Batts moved, seconded by Mr. Hewitt, to grant approval to publish a Notice of Proposed Regulation 61-62, Air Pollution control Regulations and Standards, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.

Item 7: Proposed Repeal of Regulation 61-72, Procedures for Contested Cases, Legislative review is require (Attachment 7-1)

Mr. Rupinderjit Grewal, Assistant General Counsel, presented this item to the Board.

The Department proposes to repeal Regulation 61-72, Procedures for Contested Cases, since adjudicatory hearings as prescribed in R.61-72 no longer occur due to the statutory creation of the Administrative Law Court (ALC) and S.C. Code Ann. Section 44-1-60 (Supp. 2013) providing for ALC review of final agency decisions. The requirements and procedures of 61-72 have no legal effect.

After discussion, *Mr. Hewitt moved, seconded by Dr. Kirol, to grant approval to publish a Notice of Proposed Repeal of Regulation 61-72, Procedures for Contested Cases, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 8: Agency Affairs

Director Templeton reported on status of the Brewer Gold Mine, SRS Funding and closing of tanks, and the re-instatement of the Certificate of Need Program.

Item 11: Legal Report

No report.

Chairman Amsler adjourned the meeting.

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

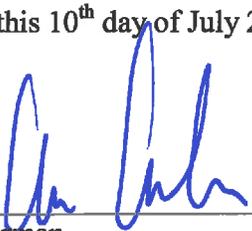
Respectfully submitted,



Ann B. Kirol, DDS, Secretary

Minutes approved this 10th day of July 2014.

ATTEST:



Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes of May 8 meeting
- 2-1 Administrative Orders, Consent Orders issued by Environmental Affairs
- 3-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 4-1 Appointment of six members of the Emergency Medical Services for Children Advisory Committee
- 5-1 Public Hearing - Proposed Amendment of R.61-30, Environmental Protection Fees
- 5-2 Public Hearing sign-in sheet
- 5-3 Verbatim Transcript
- 6-1 Proposed Amendment of R.61-62, Air Pollution Control Regulations and Standards and the South Carolina Air Quality Implementation Plan (SIP)
- 6-2 Erratum
- 7-1 Proposed Repeal of Regulation 61-72, Procedures for Contested Cases