



Mark R. Elam, Chairman
Jim P. Creel, Jr., Vice-Chairman
Charles M. Joye, II, P.E., Secretary
J.B. (Sonny) Kinney

Board:
Seema Shrivastava-Patel
Richard V. Lee, Jr.
Alex A. Singleton

Minutes of the December 10, 2020, meeting of the South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, December 10, 2020, at 10:00 a.m. in the Boardroom (#3420) at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Mark Elam, Chairman
J.B. (Sonny) Kinney, 1st District
Seema Shrivastava-Patel, 2nd District
Robert Morgan, MD, 4th District
Richard V. Lee, Jr., 5th District

In attendance via telephone
Jim P. Creel, Jr., Vice-Chairman
Charles M. Joye, II, P.E., 3rd District
Alex A. Singleton, 6th District

Also, in attendance were W. Marshall Taylor, Acting Director, Rupinderjit S. Grewal, Legal Counsel; M. Denise Crawford, Clerk; Department staff; and members of the public. The meeting was also available via Livestream.

Chairman Elam 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 November 12, 2020 meeting (Attachment 1-1)

Mr. Kinney moved, seconded by Mr. Lee, to approve the minutes as presented. The Board voted and Motion carried.

Item 2: Agency Affairs

Dr. Michael Kacka, Medical Consultant, provided an update on the COVID 19 (Coronavirus).

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

Stephen White, Director of Division of Immunization, provided an update on the COVID 19 (Coronavirus) vaccine.

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

Board Member Rick Lee, Chairman of the South Carolina State Health Planning Committee, provided an update.

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

W. Marshall Taylor acknowledged the work of the board, the agency executive leadership team, the Legislature, and staff during the COVID 19 pandemic.

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

Item 3: Administrative Orders and Consent Orders issued by Healthcare Quality (Attachment 3-1)

Ms. Bentley White, Director of Policy and Communications, Healthcare Quality, stated that for this reporting period, two (2) Consent Orders with assessed civil penalties totaling \$26,750.00 and ninety-seven (97) Administrative Orders with no assessed civil penalties have been issued.

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

Item 4: Administrative Orders and Consent Orders issued by Environmental Affairs (Attachment 4-1)

Ms. Rebecca Sproles, Liaison, Environmental Affairs, stated that for this reporting period, sixty-five (65) Consent Orders with assessed civil penalties totaling \$108,085.00 have been issued.

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

Item 5: Appointment of Hospital Infections Disclosure Act (HIDA) Advisory Committee Member (Attachment 5-1)

Mr. Abdoulaye Diedhiou, DADE Division Director, Bureau of Communicable Disease Prevention and Control, presented this item to the Board.

Kathy Bradley is an AARP volunteer with both personal and professional experience as a consumer advocate. In 2009, Kathy retired after a 33-year career providing care for individuals receiving long-term care in both home and facility settings. Her professional roles included direct care provider, program and staff management, Nursing Home Administrator, and Executive Director of a county Board of Disabilities and Special Needs, where she directed lifespan services for people with disabilities for over 16 years.

Upon retirement, Ms. Bradley led caregiving efforts for her father-in-law and mother, who both suffered severe declines in health from dementia. The challenges Kathy confronted in her efforts to care for her loved ones led her to establish Our Mother's Voice, a nonprofit organization that provides information to empower families to advocate for quality care and services for their loved ones who need long-term care at home or in nursing facilities.

Kathy works on the state and national level. She serves on the SC Adult Protection Coordinating Council and the SC Coalition on Dementia Care; acts as an AARP SC Volunteer Advocate; and worked with the SC Oral Health Coalition and its Older Adults Workgroup. She serves on the Leadership Council for the National Consumer Voice for Quality Long-Term Care, participating in numerous committees and workgroups, and served two terms as Vice-Chair of the Council. Ms. Bradley conducts workshops and seminars, presenting to diverse groups locally, nationally, and internationally, and has provided testimony to Congressional committees, with her message of advocacy and well-being for vulnerable people.

The statute establishing HIDA requires that the DHEC Board "shall appoint an advisory committee that must have an equal number of members representing all involved parties. The board shall seek recommendations for appointments to the advisory committee from organizations that represent the interests of hospitals, consumers, businesses, purchasers of health care services, physicians, and other professionals involved in the research and control of infections".

In recent years, the only consumer representatives who have actively participated in quarterly HIDA meetings are Dr. John Ruoff and AARP representatives. AARP's most recent representative was Ms. Francee Levin, who passed away earlier this year.

AARP has a long-standing commitment to patient safety, especially among the 50+ population. AARP was a leading advocate for the Hospital-Acquired Infections Disclosure Act and participated in the negotiations which produced the legislation.

After discussion, **Dr. Morgan moved, seconded by Mr. Lee, to approve the appointment of Katherine Bradley as AARP representative on the Hospital Infections Disclosure Act Advisory Committee. The Board voted and Motion carried.**

Item 6: Notice of Proposed Regulation amending Regulation 61-7, Emergency Medical Services (Attachment 6-1)

Mr. Russell Morrison, Office of Policy and Communications, Healthcare Quality, presented this item to the Board.

The Division of Healthcare Quality ("Healthcare Quality") proposed the Notice of Proposed Regulation amending R.61-7, *Emergency Medical Services*, for publication in the December 25, 2020, *South Carolina State Register* ("State Register"). Legal authority resides in S.C. Code Sections 44-61-10 *et seq.*, which requires the Department of Health and Environmental Control ("Department") to establish and enforce basic standards for the licensure of ambulance services and emergency medical responder agencies, and certification of EMS personnel to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department proposed amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification.

The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. A copy of the Notice of Drafting was provided. The Department received public comments from nine parties by the March 30, 2020, close of the public comment period. A summary of these public comments received and Department responses was provided.

Healthcare Quality held a stakeholder meeting on March 18, 2020.

Department staff conducted an internal review of the proposed amendments on November 18, 2020.

Department staff provided members of the Emergency Medical Services Advisory Council a draft copy of NPR R. 61-7 for review and response on November 12, 2020. One member of the council submitted preliminary comments on November 19, 2020. A summary of those comments was provided. The Emergency Medical Services Advisory Council will conduct a comprehensive review of the NPR on December 10, 2020.

The Deputy of Healthcare Quality requested the Board to grant approval of the attached Notice of Proposed Regulation for publication in the December 25, 2020, *State Register*.

After discussion, **Mr. Lee moved, seconded by Mr. Kinney, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-7, *Emergency Medical Services*, 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: Continuation of Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-24, *Licensed Midwives*, Document No. 4974
(Attachment 7-1)

A Public Hearing was continued from the November 12, 2020 meeting concerning the Regulation. Mr. Russ Morrison, Office of Policy and Communications, Healthcare Quality, presented this item to the Board.

The Division of Healthcare Quality ("Healthcare Quality") proposed amending Regulation 61-24, *Licensed Midwives*, pursuant to South Carolina Code Sections 44-1-140 *et seq.*, which enables the Department of Health and Environmental Control ("Department") to establish and enforce basic standards for the licensure of midwives and midwifery services to ensure the safe and adequate treatment of persons served in this state. The proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to

conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department initiated the statutory process for amendment pursuant to S.C. Code Section 1-23-110(A)(1) by publication of a Notice of Drafting in the February 28, 2020, *State Register*.

The Board granted staff approval on August 13, 2020 to publish a Notice of Proposed Regulation containing the text and notice of opportunity for public comment in the August 28, 2020, *State Register*, as Document No. 4974.

The Department received public comments from 107 people by the September 28, 2020, close of the public comment period. Department staff considered those comments in finalizing the regulatory text of the proposal for public hearing

A Public Hearing for Notice of Final Regulation Amending R.61-24, *Licensed Midwives*, Document No. 4974, was conducted before the Board on November 12, 2020. After hearing comments from the public, the Board decided to continue the Public Hearing to the December 10, 2020 Board meeting. Specifically, the Board directed Department staff to provide additional information and revisions to the proposed regulations as it relates to the use of Lidocaine, the use of antihemorrhagics, mandatory 911 transport, physician sign-off on low risk birth, and any other items mentioned or reviewed in the comments.

Staff's review of these issues and pertinent sections of the current regulation, the proposed language as presented, justification for the proposed amendments, and potential alternative language for the Board's consideration was provided.

Healthcare Quality requested the Board find need and reasonableness of its proposed amendments of R.61-24, *Licensed Midwives*, for submission to the General Assembly.

Chairman Elam opened the floor for board member discussion on this matter.

After discussion, **Mr. Kinney made a motion that the Board go into Executive Session pursuant to SC Code Section 30-4-70(A)(1) and (A)(2) to obtain legal advice. Dr. Morgan seconded the motion and the motion carried unanimously.**

Chairman Elam stated the Board was back in public session and while in Executive Session no actions were taken.

After further discussion, **Dr. Morgan moved, seconded by Mr. Singleton, to continue Regulation 61-24 until the January 7, 2021 meeting of the board and to establish a meeting with two members of Department staff, two members of the Midwifery Advisory Council, and two member of the board to discuss the regulation based on information provided to the board. The Board voted and Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 7-3)

Item 8: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-96, Athletic Trainers, Document No. 4996 (Attachment 8-1)

A Public Hearing was conducted concerning the Regulation. Mr. Russ Morrison, Office of Policy and Communications, Healthcare Quality, presented this item to the Board.

The Division of Healthcare Quality ("Healthcare Quality") proposed the Notice of Final Regulation amending R.61-96, *Athletic Trainers*. Legal authority resides in S.C. Code Sections 44-75-10 *et seq.*, which requires the Department of Health and Environmental Control ("Department") to develop standards and prescribe regulations for the improvement of athletic training services in the state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

Pursuant to R.61-96, *Athletic Trainers*, Healthcare Quality certifies and enforces standards athletic trainers in South Carolina. Healthcare Quality proposes updating provisions for R.61-96 in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements regarding obtaining licensure, inspections, training, record maintenance and retention, the incorporation of statutory changes allowing for monetary penalties, and licensure standards. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

The Department had a Notice of Drafting published in the February 28, 2020, *State Register*.

Healthcare Quality held a stakeholder meeting on March 16, 2020. Healthcare Quality considered stakeholder feedback in formulating the proposed amendments herein.

Appropriate Department staff conducted an internal review of the proposed amendments on July 28, 2020.

Healthcare Quality staff received comments on the proposed amendments from the Athletic Trainers' Advisory Committee on July 31, 2020, and considered the committee's feedback in formulating the proposed amendments herein. Healthcare Quality presented those comments to the Board during the September 10, 2020, Board meeting.

The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from twelve people by the October 26, 2020, close of the public comment period, and considered the comments in formulating the proposed amendments herein.

Healthcare Quality held another stakeholder meeting on October 9, 2020, and considered stakeholder feedback in formulating the proposed amendments.

After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting and published in the September 25, 2020, *State Register*. Descriptions of the changes, Summary of Public Comments and Department Responses were provided.

Healthcare Quality requested the Board to find need and reasonableness of the proposed amendment of R.61-96, *Athletic Trainers*, for submission to the General Assembly.

Mr. Grewal opened the meeting up for public comments on this matter, but no one wished to speak. (Attachment 8-2) No comments were received, and the public hearing was closed.

After discussion, **Mr. Lee moved, seconded by Mr. Kinney, that based on the public hearing and documents, moved to find for the need and reasonableness of the proposed amendment of Regulation 61-96, *Athletic Trainers*, Document 4996, and grant approval for submission to the General Assembly for review. The Board voted and Motion carried.**

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

Item 9: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-43, Standards for the Permitting of Agricultural Animal Facilities, Document No. 4997 (Attachment 9-1)

A Public Hearing was conducted concerning the Regulation. Mr. Chuck Williams, Manager, Bureau of Water, Environmental Affairs, presented this item to the Board.

The Bureau of Water ("Bureau") proposed the Notice of Final Regulation amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*. Legal authority resides in S.C. Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 *et seq.*, which authorizes the South Carolina Department of Health and Environmental Control ("Department") to promulgate applicable regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

The Bureau proposed amending R.61-43 to incorporate Act 139 of 2018, which amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes. The Bureau also proposed amendments to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The Department had a Notice of Drafting published in the June 26, 2020, *State Register*.

Department staff conducted an internal review of the proposed amendments on August 3, 2020.

The Bureau held seven stakeholder meetings between March 28, 2019, and October 26, 2020, to solicit stakeholder input, including open-invitation meetings, in-person and virtually, and individual interest groups. The Bureau utilized the Department's website and agency calendar to advertise these meetings and emailed invitations to identified stakeholders. The Bureau received feedback from stakeholders and considered their comments and suggestions regarding the proposed changes to the regulation.

The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from five people by the October 26, 2020, close of the public comment period. A summary of these public comments received, and Department responses was provided.

On October 26, 2020, the Department held a stakeholder meeting to discuss the proposed changes and to inform them that public comments needed to be submitted that day.

After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting and published in the September 25, 2020, *State Register*. Descriptions of the changes appear in a Summary of Public Comments and Department Responses provided to the board.

The Bureau of Water requested the Board to find need and reasonableness of the proposed amendment of R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, for submission to the General Assembly.

Mr. Grewal opened the meeting up for public comments on this matter, but no one wished to speak. (Attachment 9-2) No comments were received, and the public hearing was closed.

After discussion, **Mr. Kinney moved, seconded by Ms. Shrivastava-Patel, that based on the public hearing and documents, moved to find for the need and reasonableness of the proposed amendment of Regulation 61-43, *Standards for Permitting of Agricultural Animal Facilities*, Document 4997, and grant approval for submission to the General Assembly for review. The Board voted and Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 9-3)

Item 10: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, Document No. 4978, Exempt from General Assembly review (Attachment 10-1)

A Public Hearing was conducted concerning the Regulation. Ms. Mary Peyton Wall, Program Manager, Bureau of Air Quality, Environmental Affairs, presented this item to the Board.

The Bureau of Air Quality (Bureau) submitted the Notice of Final Regulation amending R.61-62, Air Pollution Control Regulations and Standards, for publication in the December 25, 2020, South Carolina State Register ("State Register"). Legal authority resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq. ("Pollution Control Act"), which authorizes the Department of Health and Environmental Control (Department) to adopt emission control regulations, standards, and limitations, and take all actions necessary or

appropriate to secure to the state the benefits of federal air pollution control laws. The Administrative Procedures Act, S.C. Code Section I-23-120(H)(I), exempts these amendments from General Assembly review, as they are for compliance with federal law. The amendments will take legal effect as of the December 25, 2020, publication in the State Register.

Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, 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 pursuant to 42 U.S.C. Section 7416.

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department is amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61-62.68, Chemical Accident Prevention Provisions, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department is also amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the Federal Register on July 8, 2019 (84 FR 32520). This amendment is to ensure compliance with federal law.

The Department is also amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore deletes R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department is also making other amendments to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling and overall improvement of the text of R.61-62 as necessary.

The Bureau held stakeholder meetings concerning South Carolina's implementation of the ACE rule on October 7, 2019, and February 24, 2020, for external stakeholders, and on October 21, 2019, February 10, 2020, June 15, 2020, and October 19, 2020, for the affected facilities. Additionally, the Bureau provided the draft amendments to both the affected facilities subject to R.61-62.60, Subpart UUUUa and external stakeholders for their review. The Bureau held stakeholder meetings for affected facilities subject to R.61- 62.68, Chemical

Accident Prevention Provisions, following EPA's initial proposal to amend 40 CFR Part 68. Additionally, the Bureau provided the final federal amendments to 40 CFR Part 68 to affected facilities following the promulgation date.

The Department had a Notice of Drafting published in the February 28, 2020, State Register.

Department staff conducted an internal review of the proposed amendments on June 18, 2020.

The Department had a Notice of Proposed Regulation published in the August 28, 2020, State Register. The Department received no public comments by September 28, 2020, the close of the public comment period.

The Bureau of Air Quality requested the Board to find need and reasonableness of the amendments of R.61-62, Air Pollution Control Regulations and Standards, for legal effect as of December 25, 2020, publication in the State Register.

Mr. Grewal opened the meeting up for public comments on this matter, but no one wished to speak. (Attachment 10-2) The public comment portion of the public hearing was concluded.

After discussion, **Mr. Lee moved, seconded by Mr. Joye, that based on the public hearing and documents herein, to find for the need and reasonableness of the proposed amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, Document No. 4978, and grant approval to publish the Notice of Final Regulation for legal effect as of the December 25, 2020, publication in the State Register. The Board voted and Motion carried.**

Item 11: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 30-1, Statement of Policy, and Regulation 30-12, Specific Project Standards for Tidelands and Coastal Waters, Document No. 4995

A Public Hearing was conducted concerning the Regulation. Ms. Elizabeth von Kolntiz, Office of Ocean and Coastal Resource Management, Environmental Affairs, presented this item to the Board.

The Office of Ocean and Coastal Resource Management proposed the Notice of Final Regulation amending R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*. Legal authority resides in S.C. Code Sections 48-39-10 *et seq.*, which instructs the Department of Health and Environmental Control ("Department") to implement policies to promote the economic and social welfare of the citizens of the state while protecting the sensitive and fragile areas in the coastal counties and promoting sound development of coastal resources. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

Pursuant to R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, the Department implements an overall coastal zone management program and permitting process to guide the wise preservation and utilization of coastal resources. The Department proposes new sections R.30-1.D(31) and R.30-12.Q to provide a definition and add project standards for living shorelines. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer

permitting review times and uncertainties about project performance. The proposed new sections will allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. The proposed new sections will also help ensure a project's design will accomplish its intended goals.

The Department had a Notice of Drafting published in the April 24, 2020, *State Register*.

In 2015, the Department commenced a Living Shoreline initiative in partnership with the South Carolina Department of Natural Resources and South Carolina's two National Estuarine Research Reserves to evaluate the performance of different living shoreline methods over time and under a range of environmental conditions. As a result of this collaboration, a technical report was produced in 2019 to provide science-based information to guide living shoreline project standards in South Carolina.

The Department convened a Living Shorelines Working Group that includes members of federal, state, and local governments, as well as nongovernment organizations (NGOs). The Working Group met four times between February 2017 and May 2019 to provide input on various aspects of living shorelines including regulatory guidance, research, and education and outreach. The Working Group will continue to meet in the future to assist in educational and training opportunities associated with living shorelines.

In February 2020, the Department held an inter-agency coordination meeting with key agencies involved in the living shorelines process from permitting through the installation phase. Specific agencies included the U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, NOAA National Marine Fisheries Service, SC Department of Natural Resources, DHEC Shellfish Program, and DHEC Bureau of Water. Representatives from local governments and NGOs also participated in the discussion.

Department staff conducted an internal review of the proposed amendments on August 21, 2020.

The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from four people/organizations by the October 26, 2020, close of the public comment period. A summary of public comments received and Department responses were provided.

After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting and published in the September 25, 2020, *State Register*. Descriptions of the changes, Summary of Public Comments and Department Responses were provided.

The Office of Ocean and Coastal Resource Management requested the Board find need and reasonableness of the proposed amendment of R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, for submission to the General Assembly.

Mr. Grewal opened the meeting up for public comments on this matter. One member of the public spoke. (Attachment 9-2) The public hearing was closed.

After discussion, **Dr. Morgan moved, seconded by Mr. Lee, that based on the public hearing and documents herein, to find for the need and reasonableness of the proposed amendment of Regulation 30-1, *Statement of Policy*, and Regulation 30-12, *Specific Project Standards for Tidelands and Coastal Waters*, Document No. 4995, and grant approval for submission to the General Assembly. The Board voted and Motion carried.**

Item 12: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, Document No. 5003

A Public Hearing was conducted concerning the Regulation. Ms. Jana White, Section Manager, Bureau of Land and Waste Management, Environmental Affairs, presented this item to the Board.

The Bureau of Land and Waste (“Bureau”) proposed the Notice of Final Regulation amending R.61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*. Legal authority resides in the South Carolina Solid Waste Policy and Management Act, S.C. Code Sections 44-96-10 *et seq.*, which requires the Department to promulgate regulations establishing standards for the management of yard trash and land-clearing debris and production of compost. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

Pursuant to S.C. Code Sections 44-96-10 *et seq.*, the Department must establish standards for the management of yard trash and land-clearing debris and production of compost. The Bureau proposes amending R.61-107.4 to improve environmental protection, ensure adequate but not burdensome financial assurance to close facilities that cease operating, provide clarity for permit exemptions, update operational criteria, and correct typographical and other similar errors.

The Department had a Notice of Drafting published in the May 22, 2020, *State Register*.

Department staff conducted an internal review of the proposed amendments on September 3, 2020.

The Bureau conducted a stakeholder engagement meeting virtually on August 24, 2020. Participants included representatives of the compost industry, the waste industry, environmental organizations, and city and county government. Additionally, the Bureau provided representatives from Clemson University’s Department of Plant Industry and the U.S. Department of Agriculture copies of the draft and invited to participate and/or comment. The Bureau also invited parties that commented on the Notice of Drafting to participate in this meeting.

The Department had a Notice of Proposed Regulation published in the October 23, 2020, *State Register*. The Department received public comments from one (1) person by the November 23, 2020, close of the public comment period. A summary of these public comments received and Department responses was provided.

After consideration of all timely received comments, the staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board at the October 8th, 2020, Board meeting and published in the October 23, 2020, *State Register*. Descriptions of the changes, Summary of Public Comments and Department Responses was provided.

After discussion, **Mr. Lee moved, seconded by Ms. Shrivastava-Patel, that based on the public hearing and documents herein, to find for the need and reasonableness of the proposed amendment of Regulation 61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, Document No. 5003, and grant approval for submission to the General Assembly. The Board voted and Motion carried.**

The Bureau requested the Board to find need and reasonableness of the proposed amendment of R.61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, for submission to the General Assembly.

Mr. Grewal opened the meeting up for public comments on this matter, but no one wished to speak. (Attachment 12-2) No comments were received, and the public hearing was closed.

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 12-3)


Ms. Shrivastava-Patel made a motion that the Board go into Executive Session pursuant to SC Code Section 30-4-70(A)(1) and (A)(2) to obtain legal advice on an employment matter. Mr. Lee seconded the motion and the motion carried unanimously.

Chairman Elam stated the Board was back in public session and while in Executive Session no actions were taken.

Being no further business, Chairman Elam adjourned the meeting.

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

Respectfully submitted,



Charles M. Joye, II, PE

Minutes approved this 7th day of January 2021.

ATTEST:



Mark R. Elam, Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign in Sheet
- 1-1 Minutes of November 12, 2020 meeting
- 3-1 Administrative Orders and Consent Orders issued by Healthcare Quality
- 4-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 5-1 Appointment of Hospital Infections Disclosure Act (HIDA) Advisory Committee Member
- 6-1 Notice of Proposed Regulation amending Regulation 61-7, *Emergency Medical Services*
- 6-2 Public Hearing Sign in Sheet
- 6-3 Regulation Revisions
- 6-4 Verbatim Transcript
- 7-1 Continuation of Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-24, *Licensed Midwives*, Document No. 4974
- 7-2 Public Hearing Sign in Sheet
- 7-3 Verbatim Transcript
- 8-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-96, *Athletic Trainers*, Document No. 4996
- 8-2 Public Hearing Sign in Sheet
- 8-3 Verbatim Transcript
- 9-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-43, *Standards for the Permitting of Agricultural Animal Facilities*, Document No. 4997
- 9-2 Public Hearing Sign in Sheet
- 9-3 Verbatim Transcript
- 10-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-62, *Air Pollution Control Regulations and Standards*, Document No. 4978, Exempt from General Assembly review
- 10-2 Public Hearing Sign in Sheet
- 10-3 Verbatim Transcript
- 11-2 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 30-1, *Statement of Policy*, and Regulation 30-12, *Specific Project Standards for Tidelands and Coastal Waters*, Document No. 4995
- 11-2 Public Hearing Sign in Sheet
- 11-3 Verbatim Transcript
- 12-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, Document No. 5003
- 12-2 Public Hearing Sign in Sheet
- 12-3 Verbatim Transcript