

Minutes of the June 8, 2023, meeting of the South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, June 8, 2023, 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:

Seema Shrivastava-Patel, Chairman
J.B. (Sonny) Kinney, 1st District
Robert Morgan, MD, 4th District
Morris E. Brown, III, MD, 6th District
William Richmond, MD, 7th District

In attendance virtually:
Charles M. Joye, II, P.E., 3rd District

Also, in attendance were Dr. Edward Simmer, Director; W. Marshall Taylor, Board Counsel; M. Denise Crawford, Clerk; Department staff; and members of the public. The meeting was also available via Livestream. (Attachment 0-2)

Chairman Shrivastava-Patel 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.

Dr. Simmer informed the Board that he would need to leave the meeting early to attend a meeting with the South Carolina Department of Administration concerning the agency restructuring.

Item 1: Minutes of May 11, 2023 meeting (Attachment 1-1)

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

Item 2. Agency Affairs

Dr. Edward Simmer, Director, updated the Board on:

- Agency Restructuring
- Director Awards

Dr. Simmer presented Employee Appreciation Coins to the following Department staff:

- Newborn Screening Team
- Marshall Taylor, General Counsel
- Chris Whitehead, Assistant General Counsel

Item 3: Notice of Proposed Regulation for new Regulation 61-107.20, *Solar Energy Systems* (Attachment 3-1)

Ms. Sallie Williams, Section Manager, Solid Waste Regulation Development, Planning, and Reporting Section, Division of Mining and Solid Waste Management, Environmental Affairs, presented this item to the Board.

The Bureau of Land and Waste Management (“Bureau”) proposed the Notice of Proposed Regulation for new regulation R.61-107.20, *Solar Energy Systems*, for publication in the June 23, 2023, South Carolina State Register (“State Register”). Legal authority resides in 2022 Act No. 119, Section 5, which directs the Department of Health and Environmental Control (“Department”) to develop rules to guide all South Carolinians invested in, selling, installing, and using photovoltaic (“PV”) modules and energy storage system batteries in the management of end-of-life photovoltaic modules, and energy storage system batteries on solar projects and the decommissioning of solar projects in excess of thirteen acres. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this proposed new regulation.

Pursuant to 2022 Act No. 119, Section 5, the Department is directed to submit regulations for the management of end-of-life PV modules and energy storage system batteries on solar projects in excess of thirteen acres. The Bureau proposed new regulation 61-107.20, *Solar Energy Systems*, to create basic guidelines for large solar energy systems to facilitate proper disposal of PV modules and accompanying equipment. The new regulation is designed to establish a registration requirement and require all large solar energy systems have a decommissioning plan, which includes financial assurance, removal of PV modules and accompanying equipment, and remediation of the land, if necessary.

The Department had a Notice of Drafting published in the March 24, 2023, *State Register*. The Department received no public comments by the April 24, 2023, close of the public comment period.

Department staff conducted an internal review of the proposed new regulation on May 8, 2023.

The Bureau conducted a stakeholder engagement meeting on January 18, 2023, to receive comments on the proposed new regulation. The Bureau conducted the meeting virtually and included representatives of solar companies, utilities, green energy advocates, the recycling industry, waste processing industry, environmental organizations, city and county governments, and other interested parties.

The Bureau requested the Board to grant approval of the Notice of Proposed Regulation for publication in the June 23, 2023, *State Register*.

After discussion, **Mr. Kinney moved, seconded by Dr. Morgan, to grant approval to publish the Notice of Proposed Regulation for new Regulation 61-107.20, *Solar Energy Systems*, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow for staff to proceed with a public hearing before the Board. The Board voted and the motion carried.**

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

Item 4: Administrative Orders and Consent Orders issued by Environmental Affairs (Attachment 3-1)

Ms. Rebecca Sproles, Liaison, Environmental Affairs, stated that for this reporting period, twenty (20) Consent Orders with assessed civil penalties totaling \$34,165.00 and twenty-six (26) Administrative Orders with assessed civil penalties totaling \$59,457.00 were issued.

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

Chairman Shrivastava-Patel stated that agenda items 5 and 6 would be heard in reverse order due to Dr. Simmer's need to leave the meeting early.

Item 5: Administrative Orders and Consent Orders issued by Healthcare Quality (Attachment 2-1)

Ms. Kim McLeod, Director of Policy and Communications, Healthcare Quality, stated that for this reporting period, two (2) Administrative Orders and six (6) Consent Orders with assessed monetary penalties totaling \$8,350.00 were issued.

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

Item 6: Administrative Orders and Consent Orders issued by Public Health (Attachment 4-1)

Ms. Bentley White, Public Health Policy Director, Public Health, stated that for this reporting period, one (1) Administrative Orders and fifteen (15) Consent Orders with assessed monetary penalties totaling \$18,800.00 were issued.

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

Item 7: Certificate of Need (CON) Update (Attachment 7-1)

Mr. David Fiorini, Senior Consultant Certificate of Need Program, Healthcare Quality, presented this matter to the Board.

On May 16, 2023, Governor McMaster signed Senate Bill 164, now Act 20, into law. The Act took effect upon signature of the Governor. Pursuant to Act 20, certain types of projects no longer require Certificate of Need (CON) review.

As a result of Act 20, the following facilities and services no longer require a CON:

- a. Ambulatory Surgical Facilities
- b. Opioid (Narcotic) Treatment Programs
- c. Freestanding Emergency Departments
- d. Hospice Facilities
- e. Residential Treatment Facilities for Children and Adolescents
- f. Cardiovascular Care Services
- g. Radiation Therapy Services (Linear Accelerators)

The following facilities and services do require a CON:

- a. Nursing Home Facilities
 - b. Home Health Agencies
 - c. Hospitals (General and Specialized Hospitals) before undertaking the following:
 - i. The construction or other establishment of a hospital (except for relocation of a hospital in the same county, construction of a new hospital up to 50 beds in a county currently without a hospital, and/or the merger or acquisition of a hospital)
 - ii. A change in the existing bed complement of a hospital through the addition of one or more beds or a change in the classification of licensure of one or more beds
 - iii. Effective January 1, 2027, the hospital CON requirements are repealed.
 - d. MUSC – Acquisitions of hospitals by MUSC will require a CON.
- Department staff notified CON holders for projects no longer requiring CON review via letter that no further quarterly progress reports or final completion reports are required.

- Department staff are in the process of notifying applicants for projects no longer requiring CON review that their applications will not be processed.
- Department staff notified via telephone applicants for projects still requiring CON review that their applications will be processed.
- Department staff will be publishing Frequently Asked Questions on the website soon.
- Department staff will be developing guidance to assist the regulated community in navigating and obtaining, if applicable, any other Healthcare Quality approval(s).

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

Item 8: Preparations for Hurricane Season

Mr. Arnold Alier, Bureau Chief of Public Health Preparedness, presented this matter to the Board. Mr. Alier provided an overview of the agency's hurricane preparedness.

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

Item 9: SCRIPS and Prescription Monitoring Program 2022 Annual Report

Ms. Chelsea Townsend, Director, South Carolina Prescription Monitoring Program, Healthcare Quality, presented this matter to the Board. Ms. Townsend provided an overview of the 2022 annual report.

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

Item 10: Election of Vice-Chairman

Chairman Shrivastava-Patel asked for nominations of Board Members to serve as Vice-Chairman.

Dr. Brown nominated Dr. Robert Morgan to serve as Vice-Chairman of the Board. Chairman Shrivastava-Patel asked for any additional nominations, hearing none, she asked for a motion to close the nominations. Mr. Kinney moved, seconded by Dr. Richmond, to close nominations for Vice-Chairman. The Board voted and the motion carried, and the nominations were closed. With no other nominees, a vote was not required, and Dr. Morgan was elected to serve as Vice Chairman.

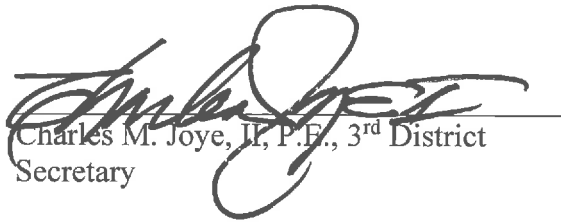
Item 11: Appointment of Board Representative to SC Health Planning Committee

Chairman Shrivastava-Patel informed the Board that she had appointed Dr. Robert Morgan to serve as the Board Representative to the SC Health Planning Committee. Dr. Morgan accepted the appointment.

Being no further business, Chairman Shrivastava-Patel adjourned the meeting.


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

Respectfully submitted,


Charles M. Joye, II, P.E., 3rd District
Secretary

Minutes approved this 13th day of July 2023.

ATTEST:


Seema Shrivastava-Patel, Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign in Sheet
- 1-1 Minutes of May 11, 2023 meeting
- 3-1 Notice of Proposed Regulation for new Regulation 61-107.20, *Solar Energy Systems*
- 4-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 5-1 Administrative Orders and Consent Orders issued by Healthcare Quality
- 6-1 Administrative Order and Consent Orders issued by Public Health
- 7-1 Certificate of Need (CON) Update