

BOARD:  
Allen Amsler  
Chairman  
  
Mark S. Lutz  
Vice Chairman  
  
Ann B. Kirol, DDS  
Secretary



Catherine E. Heigel, Director

*Promoting and protecting the health of the public and the environment*

*South Carolina Board of Health and Environmental Control*

2600 Bull Street, Columbia, South Carolina 29201 · Telephone: (803) 898-3309 · Facsimile: (803) 898-3393 [lucaslm@dhec.sc.gov](mailto:lucaslm@dhec.sc.gov)

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

## South Carolina Board of Health and Environmental Control

**March 10, 2016**

The South Carolina Board of Health and Environmental Control met on Thursday, March 10, 2016, at 10:00 a.m. in the Board Room of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Allen Amsler, Chairman  
Member-at-Large

Ann B. Kirol, DDS, Secretary  
5th District

R. Kenyon Wells  
2nd District

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

L. Clarence Batts  
4th District

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

Also in attendance were Catherine E. Heigel, 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 November 19, 2015; December 39, 2015; January 7, 2016; and February 10, 2016 meetings** (Attachment 1-1)

*Mr. Batts moved, seconded by Dr. Kirol, to approve the minutes as presented for the November 19, December 29, January 7 and February 10 meetings. The Board voted and Motion carried.*

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

Ms. Robin Stephens, Compliance Assistance and Enforcement, Environmental Affairs, stated three (3) Administrative Orders and seventy-seven (77) Consent Orders had been issued with total penalties of \$426,031.

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

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

Ms. Bentley White, Health Regulation Program Manager, stated six (6) Consent Orders and one (1) Emergency Suspension Order had been issued with total penalties of \$3,500.

*The Board accepted this item as information.*

**Item 4: Proposed Amendment of Regulation 61-79, Hazardous Waste Management Regulations, Federally Mandated Regulations, Exempt from Legislative Review** (Attachment 4-1)

Mr. Joe Bowers, Section Manager, Division of Hazardous Waste, presented this item to the Board.

The Department proposed to amend S.C. Regulation 61-79, Hazardous Waste Management Regulations, to adopt four final rules published in the Federal Register by the United States Environmental Protection Agency (EPA).

The Department is proposing to amend R.61-79 as follows:

- to adopt the “Hazardous Waste Electronic Manifest System; Final Rule,” published on February 7, 2014 at 79 FR 7518-7563;
- to adopt the “Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule,” published on June 26, 2014 at 79 FR 36220-36231;
- to adopt the “Revisions to the Definition of Solid Waste,” published on January 13, 2015 at 80 FR 1694-1814;
- to adopt the “Vacatur of the Comparable Fuels Rule and the Gasification Rule,” published on April 8, 2015 at 80 FR 18777-18780.

Adoption of these federal amendments is required to comply with Federal law and will bring R.61-79 into conformity with the Federal regulation.

After discussion, *Dr. Kirol moved, seconded by Mr. Batts, to grant approval to publish the Notice of Proposed Amendment of Regulation 61-79, Hazardous Waste Management Regulations, 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 5: Placement of 10 Synthetic Cathinones into Schedule I for Controlled Substances**  
(Attachment 5-1)

Ms. Rachel Richmon, Bureau of Drug Control, presented this item to the Board.

The Assistant Secretary of the Department of Health and Human Services and the Deputy Administrator of the DEA found the available data and information for 4-MEC, 4-MePP,  $\alpha$ -PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and  $\alpha$ -PBP indicate that these substances have a high potential for abuse, no currently accepted medical use in the U.S., and a lack of accepted safety for use under medical supervision, meeting the criteria for placement in schedule I of the U.S. Controlled Substance Act (USCSA).

In 2011, a bill was introduced in the S.C. General Assembly, which passed in 2012, to add cathinones and substituted cathinones into Schedule I of the S.C. Controlled Substances Act (SCCSA). South Carolina's action preceded the Federal Register publication temporarily scheduling these substances in the Federal Register on March 7, 2014. The final DEA order, published March 4, 2016, in the Federal Register, includes the chemical compounds not specifically named in Schedule I of the S.C. CSA, which need to be added to S.C. Code Section 44-53-190 to ensure South Carolina is consistent with the federal Schedule I designation, as required by S.C. Code Section 44-53-160(C).

The DEA notice scheduling synthetic cathinones states that these substances "are promoted as being a 'legal' alternative to cocaine, methamphetamine, and MDMA" and have been marketed under the guise of "research chemicals," "jewelry cleaner," "stain remover," "plant food or fertilizer," "insect repellants," or "bath salts." The National Forensic Laboratory Information System (NFLIS) registered 9,113 reports containing these substances across 42 states between January 2010 and December 2013. The Deputy Administrator of the DEA found the placement of these synthetic cathinones into schedule I of the U.S.CSA was warranted to avoid an imminent hazard to the public safety.

As a result of the DEA order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, import, export, and engage in research, conduct instructional activities, and possess) or propose to handle these synthetic cathinones.

After discussion, *Mr. Batts moved, seconded by Dr. Hutto, to approve the staff recommendation to designate the additional substances as named in the DEA notice published in the Federal Register on March 4, 2016, and amend Section 44-53-190 of the S.C.*

*Controlled Substances Act for consistency with the Federal scheduling. The Board voted and Motion carried. Board Scheduling Document (Attachment 5-2)*

**Item 6: Final Review Conference – Docket No. 15-RFR-84, CIDS, Inc. – Issuance of Administrative Order 15-050-A for violations of National Emissions Standards for Hazardous Air Pollutants, specifically the National Emission Standard for Asbestos and Regulation 61-86.1, Standards of Performance for Asbestos Projects** (Attachment 6-1)

Mr. Marshall Taylor introduced the matter to the Board.

Ms. Dawn Miller represented the Department. Mr. Thomas Lavender represented CIDS. Powerpoint presentations of both parties are included in the record. (Attachment 6-2)

After presentations from both parties, and questions from the Board and discussion, *Mr. Joye moved, seconded by Mr. Batts, to go into Executive Session for the purpose of obtaining legal advice on this matter. The Board voted and Motion carried.*

Chairman Amsler announced the Board was back in public session and while in Executive Session no decisions were made while in Executive Session.

Chairman Amsler recused himself from action by the Board. (Attachment 6-3)

After further discussion, *Mr. Joye moved, seconded by Mr. Batts, to dismiss Docket No. 15-RFR-84 and the Administrative Order in their entirety. The Board voted and Motion carried by a vote of 3-2 with Mr. Wells and Dr. Hutto being the dissenting votes.*

#### **Item 7: Agency Affairs**

Director Catherine Heigel reported on the following topics:

- Budget
- Dam Program
- Lead in Drinking Water
- Zika Preparedness.

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

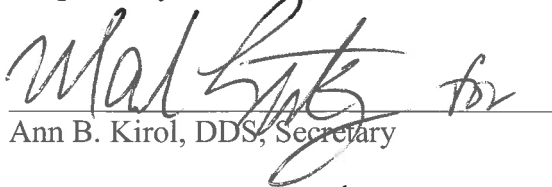
Chairman Amsler asked for an Executive Session for the purpose of discussing a Personnel issue. *Mr. Batts moved, seconded by Mr. Wells to go into Executive Session. The Board voted and Motion carried.*

Chairman Amsler announced the Board was back in public session and no decisions were made while in Executive Session.

Meeting adjourned.

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

Respectfully submitted,

  
Ann B. Kirol, DDS, Secretary

Minutes approved this 12<sup>th</sup> day of May 2016.

ATTEST:

  
Allen Amsler, Chairman

#### Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 November 19, December 29, January 7 and February 10 minutes
- 2-1 Administrative and Consent Orders issued by Environmental Affairs
- 3-1 Administrative Orders, Consent Orders and Sanctions issued by Health Regulation
- 4-1 Proposed Amendment of R.61-79, Hazardous Waste Management Regulations
- 5-1 Placement of 10 Synthetic Cathinones into Schedule I for Controlled Substances
- 5-2 Board Designation Document
- 6-1 Final Review Conference – Docket No. 15-RFR-84, CIDS, Inc.
- 6-2 Powerpoint Presentations by parties
- 6-3 Statement of Recusal by Allen Amsler