



Board:

Allen Amsler, *Chairman*
Ann B. Kirol, DDS, *Vice Chair*
L. Clarence Batts, Jr., *Secretary*

R. Kenyon Wells
Charles M. Joye II, P.E.
David W. Gillespie, MD

**Minutes of the May 11, 2017 meeting of the
South Carolina Board of Health and Environmental Control**

The South Carolina Board of Health and Environmental Control met on Thursday, May 11, 2017, 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, Member-at-Large
Ann B. Kirol, DDS, Vice Chair, 5th District
L. Clarence Batts, Secretary, 4th District
R. Kenyon Wells, 2nd District
David W. Gillespie, MD, 6th District

By Phone:

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

1st District and 7th District seats are currently vacant.

Also in attendance were Catherine E. Heigel, Director; Ashley C. Biggers, Legal Counsel; Lisa L. Longshore, Clerk; Department staff and members of the public. (Attachment 0-2) The meeting was live streamed on the internet.

Chairman Allen 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 April 5, 2017 meeting (Attachment 1-1)

Mr. Wells moved, seconded by Dr. Kirol, to approve the minutes as presented for the April 5, 2017, Board meeting. The Board voted and Motion carried.

Item 2: Administrative Orders 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 one hundred nineteen (119) Consent Orders had been issued with total penalties of \$399,263.13.

The Board accepted this item as information.

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

Mr. Thomas Bowen, Senior Consultant, Health Regulation Policy and Communications, stated six (6) Consent Orders and three (3) Emergency Suspension Orders had been issued with assessed penalties of \$44,750.

The Board accepted this item as information.

Item 4: Notice of Proposed Regulation amending Regulation 61-62, Air Pollution Control Regulations and Standards (Attachment 4-1)

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

The Department proposed amendments as follows:

- to amend Regulation 61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; Regulation 61-62.70, Title V Operating Permit Program; and the SIP, to adopt the federal amendments to these standards promulgated from January 1, 2016, through December 31, 2016;
- to add Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, to incorporate the EPA's CSAPR trading program for South Carolina in 40 CFR Part 97 for NOX (Annual) and SO₂ (Annual), as published in the Federal Register on August 8, 2011 (76 FR 48208) and subsequently amended on June 12, 2012 (77 FR 34830), December 3, 2014 (79 FR 71663), and October 26, 2016 (81 FR 74504). This regulation will address mandatory transport and regional haze SIP infrastructure elements pursuant to 42 U.S.C. Sections 7410 and 7491;
- to include 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.

After discussion, ***Mr. Batts moved, seconded by Dr. Gillespie, to grant approval to publish the 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 5: Temporary Placement of 4-Fluoroisobutyryl Fentanyl Into Schedule I for SC Controlled Substances (Attachment 5-1)

Ms. Anne Marie Ravenna, Bureau of Drug Control, presented this item to the Board.

Controlled substances are governed by the Controlled Substances Act (CSA), found at Title 44, Chapter 53, of the S.C. Code of Laws. Section 44-53-160 is titled "Manner in which changes in schedule of controlled substances shall be made." Pursuant to this section, controlled substances are generally designated by the General Assembly, upon recommendation by DHEC. Schedule II substances are listed in Section 44-53-210. Section 44-53-160(C) provides a process by which DHEC can expeditiously designate substance as a controlled substance if the federal government has so designated.

The U.S. Department of Justice, Drug Enforcement Administration (DEA), published on May 3, 2017, its notice of intent to temporarily schedule the synthetic opioid, N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or parafluoroisobutyryl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters, and ethers, into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action was based on a finding by the Administrator that the placement of this synthetic opioid into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. The DEA further noted its intent to publish its final rule following the required 30-day notice period. On May 3, 2017, the DEA published its Final Rule to Schedule into Schedule 1 of the CSA.

The DEA is currently aware of at least 62 confirmed overdose fatalities associated with N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or parafluoroisobutyryl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters, and ethers.

Based on the documented case reports of fatal overdoses, the abuse of 4-Fluoroisobutyryl Fentanyl leads to the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

Available data and information for 4-fluoroisobutyryl fentanyl, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision."

After discussion, ***Dr. Gillespie moved, seconded by Dr. Kirol to designate the additional substances as named in the DEA Rule published in the Federal Register on May 3, 2017, 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 Designation Document (Attachment 5-2)

Chairman Amsler stated a need for an Executive Session for legal advice on the Groundwater Management Plan for the Trident Capacity Use Area. ***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 while in Executive Session, no actions were taken.

Item 6: Proposed Initial Groundwater Management Plan for the Trident Capacity Use Area
(Attachment 6-1)

Mr. Amsler stated "this matter is before the Board for approval of the Proposed Initial Groundwater Management Plan for the Trident Capacity Use Area. This is not a permit decision or a public hearing. Therefore, no public comments will be taken at today's Board meeting."

Mr. David Baize, Chief, Bureau of Water, presented this item to the Board.

Pursuant to S.C. Code Section 49-5-60(B), the Department of Health and Environmental Control is directed to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. Section 49-5-60(B) states: "After notice and public hearing, the department shall coordinate the affected governing bodies and groundwater withdrawers to develop a groundwater management plan to achieve the goals and objectives stated in Section 49-5-20. In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan. The plan must be approved by the board before the department may issue groundwater withdrawal permits for the area."

The Department is proposing an initial groundwater management plan for the Trident Capacity Use Area to the Board for approval. The Department has coordinated with local stakeholders to develop the initial groundwater management plan for the Trident Capacity Use Area (Berkeley, Charleston and Dorchester Counties). This initial plan will begin the process of establishing goals and processes to ensure sustainable growth utilizing our groundwater resources. This is achieved by the establishment of five strategies outlined in the plan that support growth while conserving and protecting this valuable water resource. The initial plan is based on current department procedures for evaluating permit applications and establishing conservation measures. As the plan is updated, the most current information can be incorporated and the plan refined over time.

Therefore, to comply with 44-5-60, the following actions were taken to invite stakeholder participation:

- A Notice of General Public Interest was published in the State Register on February 24, 2017,
- Stakeholder Meeting on February 23, 2017,
- A public hearing on March 29, 2017,
- A second stakeholder meeting on April 12, 2017,
- Public comments were accepted through April 26, 2017.

After discussion, ***Mr. Batts moved, seconded by Mr. Wells, to approve the Proposed Initial Groundwater Management Plan for the Trident Capacity Use Area. The Board voted and Motion carried.***

Item 7: Agency Affairs

Director Heigel reported on the following Agency activities/programs:

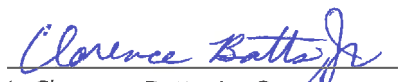
- Don't Waste Food SC, a partnership with SC Department of Commerce
- Inaugural Opioid Abuse Committee in SC House of Representatives
- Director Heigel keynote speaker for USC Arnold School of Public Health graduation

- Shout-out to Communications Team for recognition at the SC Chapter of Public Relations Society of America Mercury Awards.

Being no further business, Chairman Amsler adjourned the meeting.

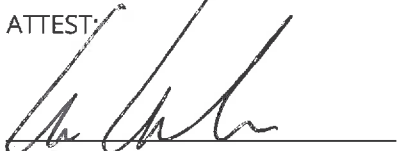
All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,


L. Clarence Batts, Jr., Secretary

Minutes approved this 8th day of June 2017.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 April 5 meeting minutes
- 2-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 3-1 Administrative Orders, Consent Orders and Sanctions Letters issued by Health Regulation
- 4-1 Notice of Proposed Regulation amending Regulation 61-62, Air Pollution Control Regulations and Standards
- 5-1 Drug Control, Temporary Placement of 4-Fluoroisobutyryl Fentanyl into Schedule I for Controlled Substances
- 5-2 Board Designation document
- 6-1 Proposed Initial Groundwater Management Plan for the Trident Capacity Use Area
- 6-2 PowerPoint Presentation by staff
- 6-3 Letters from SC Chamber of Commerce and SC Department of Commerce in support of action

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