



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, VA 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

STATE WATER CONTROL BOARD MEETING

THURSDAY, APRIL 15, 2019

DOUBLETREE BY HILTON RICHMOND AIRPORT
445 INTERNATIONAL CENTER DRIVE
SANDSTON, VIRGINIA 23150

Board Members Present:

Heather L. Wood, Chair
Robert H. Wayland, III
Timothy G. Hayes
Paula H. Jasinski

Lou Ann Jessee-Wallace, Vice-Chair
G. Nissa Dean
James A. Lofton

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

David C. Grandis, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened at 10:04 a.m., recessed at 12:03 p.m., reconvened at 12:52 p.m., and adjourned at 2:40 p.m.

Approved Minute No. 1
June 27, 2019



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS
MEETING OF APRIL 15, 2019**

**MINUTE NO. 1 Fast-track amendment to the Closure Plan and Demonstration of Financial
Capability (9VAC25-650 et seq.) regulation**

Melissa Porterfield presented the State Water Control Board (Board) with a fast-track amendment to the Closure Plan and Demonstration of Financial Capability (9VAC25-650 et seq.) regulation. This fast-track regulatory action changes the timing of when financial assurance is required to be provided when a permit is transferred to a new owner or operator.

The Board was asked to approve the use of the fast-track process and to adopt the amendments to the Closure Plan and Demonstration of Financial Capability (9VAC25-650 et seq.) regulation as a final regulation.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to authorize the Department of Environmental Quality (Department) to:

1. Promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization should also be understood to constitute its adoption of the amendments to the Closure Plan and Demonstration of Financial Capability (9VAC25-650 et seq.) regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Handwritten signature of Melanie Davenport in black ink.

Melanie Davenport
Director, Division of Water Permitting



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MINUTE NO. 2 - General Permit Overview

Ms. Melanie D. Davenport, Director of the Water Permitting Division, introduced consideration of the adoption of general permit regulations for nonmetallic mineral mining, stormwater discharges associated with industrial activity and stormwater discharges from construction activities. The introduction described what a general permit is and how it differs from an individual permit.


Cindy M. Berndt



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MINUTE NO. 3 - Virginia Pollutant Discharge Elimination System General Permit Regulation for Nonmetallic Mineral Mining (9VAC25-190)

Prior to the meeting the Board was provided materials including a briefing memo to the Board, which included a list of the technical advisory committee membership, the regulation showing proposed amendments, and the town hall agency background document. Peter Sherman, from the Office of VPDES Permits, presented a summary of the significant changes to the regulation since proposal. Rob Lanham (VTCA) and Andrea Wortzel (Troutman Sanders/ Vulcan) presented statements to the Board.

Board Decision

Based on the briefing material and the staff presentation, the Board voted to authorize the amendment and reissuance of the VPDES Nonmetallic Mineral Mining General Permit, 9VAC25-190. The Board also affirmed that they will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulations, as provided by the Administrative Process Act.

A handwritten signature in cursive script that reads "Melanie D. Davenport".

Melanie D. Davenport
Director, Division of Water Permitting



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MINUTE NO. 4 – General Virginia Pollutant Discharge Elimination System Permit for Discharges of Storm Water Associated with Industrial Activity (9VAC25-151)

Prior to the meeting the State Water Control Board (Board) was provided materials including a briefing memo to the Board, which included a list of the technical advisory committee membership, the regulation with proposed amendments, and the Exempt Action Final Regulation Agency Background Document. Matthew Richardson, from the Office of VPDES Permits, presented a summary of the proposed regulation's Chesapeake Bay Total Maximum Daily Load (TMDL) requirements and significant public comments and associated responses. Joe Wood (Chesapeake Bay Foundation), Lisa Ochsenhirt (Aqua Law/ Virginia Association of Municipal Wastewater Agencies), and Jaime Brunkow (James River Association) presented statements to the Board.

Board Decision

Based on the briefing material and the staff presentation, the Board voted to authorize the amendment and reissuance of the General Virginia Pollutant Discharge Elimination System Permit for Discharges of Storm Water Associated with Industrial Activity, 9VAC25-151. The Board also affirmed that they will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulations, as provided by the Administrative Process Act.

A handwritten signature in black ink that reads "Melanie D. Davenport".

Melanie D. Davenport
Director, Division of Water Permitting



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MINUTE NO. 5 - Overview of Construction and Development Related Stormwater Regulation

Ms. Melanie D. Davenport, Director of the Water Permitting Division, provided a brief overview of construction and development related stormwater regulation. She reviewed the regulatory history, briefly reviewed additional regulations applicable to construction and development related stormwater, and introduced action on the reissuance of the construction general permit.


Cindy M. Berndt



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MINUTE NO. 6 - General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880)

Prior to the meeting, the Board was provided briefing materials which included a revised draft of the subject general permit regulation, the fact sheet for the general permit, the Agency Background Document (TH-09) which included the public comment and the agency response, and the Technical Advisory Committee Membership. Jaime Robb from the Office of Stormwater Management presented a summary of changes from the proposed regulation that were made in response to public comment.

During the public comment portion of the presentation to the Board, the following three speakers addressed the Board: Lisa Ochsenhirt (Representing the Virginia Municipal Stormwater Association), Freed Cathcart, and Mara Robbins. Ms. Ochsenhirt spoke in favor of approving the permit regulation. Ms. Cathcart and Ms. Robbins expressed opposition to the proposed permit regulation.

Board Decision:

Based on the briefing materials and the staff presentation, the Board voted unanimously to adopt the amendments to the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880). The Board also affirmed that they will receive, consider and response to petitions by any person at any time with response to reconsideration or revision of the regulation, as provided by the Administrative Process Act.

A handwritten signature in cursive script that reads "Melanie D. Davenport".

Melanie D. Davenport
Director, Water Permitting Division



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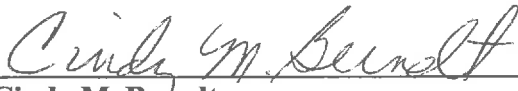
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MINUTE NO. 7 - Water Quality Standard Development - Turbidity

The Board directed the Department develop, as part of the water quality standards triennial review, numeric standards for turbidity, consider development of a turbidity standard a priority, and provide updates to the Board.



Cindy M. Beyndt



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MINUTE NO. 8 – Significant Noncompliance Report

Kristen Sadtler, Water Enforcement Program Manager, informed the Board that one permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending September 30, 2018. The permittee reported was:

1. Western Virginia Water Authority for the WVWA Water Pollution Control Plant

The Board accepted the report with no comment.

A handwritten signature in cursive script that reads "Kristen Sadtler".

Kristen Sadtler
Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 9 – VPDES Program Consent Special Order

Kristen Sadtler, Water Enforcement Program Manager, presented to the Board the Consent Order for Tyson Farms, Inc. The Board unanimously approved the Order and further authorized the Department's Director to execute the Order and further authorized the Department's Director to execute the Order on the Board's behalf and refer violations of the Order to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script that reads 'Kristen Sadtler'.

Kristen Sadtler

Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 10 - Public Forum

The following persons appeared during the public forum to present concerns, complaints and requests for stop work orders regarding the Mountain Valley Pipeline: Jessica Sims, Freeda Cathcart, Sharon Ponton, Coles Terry, Sue Rucker, Peter Anderson, Mara Robbins, George Smith, Katherine Wilkin and Jay Tubb.


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MINUTE NO. 11 - Division Director Report

The Board received a report from Ms. Jutta Schneider, Water Planning Division Director, on the Commonwealth's Draft Phase III Watershed Implementation Plan. The report included an overview of the plan and information on goals, U.S. Environmental Protection Agency expectations, recommendations, and new initiatives.


Cindy M. Berndt
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MINUTE NO. 12 - Status Report - Mountain Valley Pipeline Project

The Board directed that the Department present a report at each Board meeting on the status of construction, compliance and complaints related to the Mountain Valley Pipeline project; and, include as necessary, in closed session, the status of the lawsuit filed by the Attorney General's Office.


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MINUTE NO. 13 - Future Meetings

The Board confirmed June 27, September 6 and December 13, 2019, as the dates of the next Board meetings.


Cindy M. Berndt
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