



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

MINUTES STATE WATER CONTROL BOARD

Tuesday, December 17, 2013
General Assembly Building, House Room C
Richmond, Virginia

Board Members Present:

Robert L. Dunn, Chair
William B. Bott
Thomas V. Van Auken

William A. Pruitt, Vice-Chair
Joseph H. Nash
Ben Grumbles

Board Members Absent:

Heather L. Wood

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 on Tuesday, December 17, 2013, at 9:32 a.m., recessed at 10:20 a.m.; reconvened at 10:32 a.m.; recessed at 11:45 a.m., reconvened at 1:03 p.m. and adjourned at 2:00 p.m.

Approved Minute No. 1
June 26, 2014



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 17, 2013

MINUTE NO. 1 - Minutes

The Board approved the minutes from the September 30, 2013 meeting with a correction to the listing of the Board members in attendance at the meeting as follows: remove Roberta Kellam and add William B. Bott.


Cindy M. Berndt
Cindy M. Berndt



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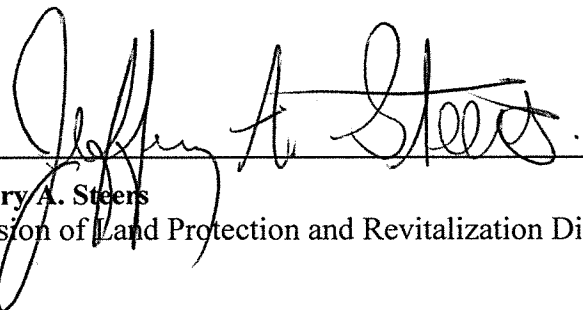
MINUTE NO. 2 Regulations- Final Facility and Aboveground Storage Tank Regulations 9VAC25-91-10 et seq.

Prior to the meeting, the Board was provided with final amendments to the Facility and Aboveground Storage Tank Regulations (9VAC25-91-10 et seq.) These amendments were finalized by staff following a public comment period held August 12, 2013 through October 11, 2013, and public hearings held September 9, 2013, and September 20, 2013 regarding proposed amendments to the regulation.

Melissa Porterfield gave the staff presentation and recommendation. The Board was requested to adopt the amendments to the Facility and Aboveground Storage Tank Regulations (9VAC25-91-10 et seq.) as final regulations.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to accept the staff recommendation to adopt amendments to the Facility and Aboveground Storage Tank Regulations (9VAC25-91-10 et seq.).



Jeffery A. Steers
Division of Land Protection and Revitalization Director



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 17, 2013

MINUTE NO. 3- General VPDES Permit For Nonmetallic Mineral Mining (9VAC25-190) – Final Regulation

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) and a memorandum summarizing public comment and the agency response and the significant changes to the regulation since proposed. Elleanor Daub from the Office of VPDES Permits presented a summary of the significant changes since the proposed stage.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the amendments to the VPDES General Permit Regulation for Nonmetallic Mineral Mining, 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 blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport
Water Division Director



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MINUTE NO. 4 - General VPDES Permit For Discharges of Stormwater Associated with Industrial Activity (9VAC25-151) – Final Regulation

Prior to the meeting the Board was provided with a revised draft of the subject general permit regulation, and the Agency Background Document (TH-09), which included a list of the changes since the proposed stage, a summary of public comments and staff responses, and a list of all the changes in the regulation. During the meeting the Board was provided with an errata sheet listing additional changes that were made to address additional EPA comments, EPA's approval of the 2012 Integrated Report, and a change to the Chesapeake Bay TMDL sections to make the nutrient credits and offsets language consistent with the Small MS4 General Permit and with the Code of Virginia. Burton Tuxford gave the staff presentation and discussed the significant changes since the proposed stage and the errata sheet changes to the regulation. Staff recommended that the Board adopt the regulation as final. Margaret L. (Peggy) Sanner, Virginia Senior Attorney, Chesapeake Bay Foundation (CBF) spoke and asked the Board to consider adding an amendment to have any required Chesapeake Bay TMDL reductions completed by the end of the permit term (2019). The Board voted 4 to 2 to defer action on the regulation until staff met with CBF to work on wording for the suggested amendment. The CBF amendment that was drafted would require permittees to achieve at least a 5% TMDL load reduction by the end of the permit term. Staff presented the amendment to the Board and discussed why we believed it was not appropriate to make the change.

Board Decision

Based on the briefing material, the errata changes presented at the meeting, the staff presentation, and much discussion, the Board voted unanimously to adopt the amendment to the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated With Industrial Activity (9 VAC 25-151) as recommended by staff, without the CBF amendment. 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 blue ink that reads 'Melanie D. Davenport'.

Melanie D. Davenport
Water Division Director



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MINUTE NO. 5 - General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) – Final Regulation

Prior to the meeting the Board was provided briefing materials which included a revised draft of the subject general permit regulation, the general permit fact sheet, a memorandum summarizing the significant changes to the regulation since proposed, and a list of all public comments received and the agency response. During the meeting the Board was provided an errata sheet listing additional changes that were made to address additional concerns regarding "Grandfathering", 9VAC25-870-48. Drew Hammond from the Office of VPDES Permits gave the staff presentation and discussed the significant changes since the proposed stage and the errata sheet changes to the regulation. The Board received comments from Mr. Jeff Kelble (Shenandoah Riverkeeper), Mr. Joseph DuRant (City of Newport News), Ms Peggy Sanner (Chesapeake Bay Foundation), Mr. Chris Pomeroy (AquaLaw), and Mr. Mike Rolband (Wetlands Studies and Solutions Inc.). Staff recommended that the Board adopt the proposed amendments to the general permit regulation as final.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the amendments to the General VPDES Permit for Discharges of Stormwater from Construction Activities. 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 blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport
Water Division Director



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MINUTE NO. 6 - Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870) – Proposed Amendments

Prior to the meeting the Board was provided briefing materials which included a revised draft of the subject regulation, a memorandum summarizing the significant changes to the regulation since the public comment period, and a list of all public comments received and the agency response. During the meeting the Board was provided an errata sheet listing additional changes that were made to address additional concerns regarding "Grandfathering", 9VAC25-870-48. Drew Hammond from the Office of VPDES Permits gave the staff presentation and discussed the significant changes since the public comment period and the errata sheet changes to the regulation. The Board received comments from Mr. Joseph DuRant (City of Newport News) and Mr. Mike Rolband (Wetlands Studies and Solutions Inc.). Staff recommended that the Board adopt the proposed amendments to the VSMP regulation as final.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the amendments to the Virginia Stormwater Management Program (VSMP) Regulation, 9VAC25-870.

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

Melanie D. Davenport
Water Division Director



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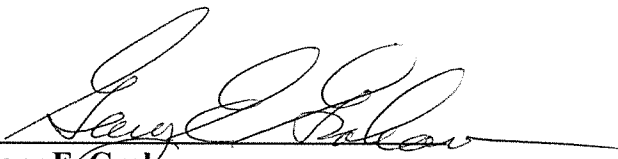
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MINUTE NO. 7 – Amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31): Mr. Gary E. Graham presented final exempt amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31). He explained that the exempt changes to the regulation implement changes to state law made in 2008 and 2013. Other exempt changes in the revision included new and amended definitions that were not materially different from federal regulation, two additional federal effluent guidelines that were incorporated by reference, an update for the latest CFR publication date, and two technical corrections to the regulation. The Board had no questions concerning the revision.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously adopted, as final regulation amendments, the amendments to the regulations as presented and authorized publication of the amendments.



Gary E. Graham



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MINUTE NO. 8 – Certification of Nonpoint Source Nutrient Credits (9VAC25-900), Proposed Regulation

Debra Harris, Office of Regulatory Affairs, presented a regulation entitled *Certification of Nonpoint Source Nutrient Credits* as a proposed regulation for public comment to the Board. This regulation is required to be developed pursuant to § 62.1-44.19:20 of the State Water Control Law. Ms. Harris provided the historical background information on the nonpoint source nutrient credit program in Virginia and an overview of the regulatory process steps undertaken by the Department of Conservation and Recreation (DCR) prior to the consolidation of the stormwater program under the Board. DCR published a NOIRA for this regulatory action on September 10, 2012 and subsequently established a Regulatory Advisory Panel (RAP) with 24 members. The RAP had ten meetings from November 2012 until October 2013. These meetings provided DCR and DEQ staff with requirements and information to include in the regulation. Following the process overview, Ms. Harris presented a part by part summary of the regulation and it was noted that overall the proposed regulation reflect issues discussed and agreed to by the RAP; however, topics of concern were noted and those topics were presented to the Board. The main issues of non-consensus by the RAP were the requirements for public notification, local water quality compliance, and financial assurance. Following a summary of the topics of concern, Ms. Harris then presented an errata sheet to the Board to highlight a few editorial changes made to the regulation which was provided in the board book. Ms. Harris then asked the Board if they had any questions. The Board did ask a few clarifying questions on the regulation and the information presented. Following the responses, Ms. Harris then presented the staff recommendation to the Board for consideration.

BOARD DECISION

Based on the board book briefing items and staff presentation, the Board, on motion by Mr. Pruitt and seconded by Dr. Van Auken, unanimously approved the proposed regulation, 9 VAC 25-900, for public comment and approved that a Board member serve as hearing office for any hearing on the proposed regulation.

A handwritten signature in cursive script, reading 'Debra A. Harris', written over a horizontal line.

Debra A. Harris
Policy and Planning Specialist



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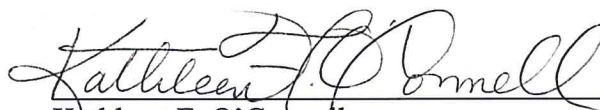
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MINUTE NO. 9 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there was one permittee, Dupont Teijin Films, U.S. Limited Partnership, to be reported as being in significant noncompliance for the quarter ending June 30, 2013. Ms. O'Connell reported that Dupont had violated the interim effluent limits of a consent order previously issued by the Board and that staff of the agency's Piedmont Regional Office had negotiated a penalty settlement, addressing the violations, which was expected to be finalized shortly.

The Board accepted the report.


Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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MINUTE 10 – FY 2014 VCWRLF Loan Authorizations

Mr. Walter Gills, Program Manager of the Department's Clean Water Financing and Assistance Program, made a presentation to the Board based on a memorandum dated November 25, 2013. The memorandum identified the staff's recommended loan amounts, terms, and interest rates for 21 projects being recommended for FY 2014 Virginia Clean Water Revolving Loan Fund assistance.

Mr. Gills began his presentation by summarizing the actions taken by the Board at its September 2013 meeting, of targeting 21 projects for FY 2014 assistance and directing the staff to present the Board's tentative list for public comment. He relayed that a public meeting was held on November 14, 2013 and that no comments had been received. Mr. Gills explained that he had met with the potential FY 2014 loan recipients to verify the schedules and financial data used to evaluate the local impact and that the staff had completed its user charge impact analyses for the targeted recipients in order to establish the interest rates in accordance with Board guidelines.

Based on the initial meetings with the applicants, there was only one recipient name change made to the previously-approved funding list, resulting in a total loan amount of \$139,358,338 for the 21 projects. Mr. Gills explained that program policy calls for the program's ceiling rate to be set at 1% below the municipal bond market and that the staff was recommending that the interest rate for each ceiling rate project be set based on an evaluation of the market conditions that exist the month prior to each loan closing.

Mr. Gills noted that Congress had still not finalized the federal SRF appropriation for FY 2014 so that staff was unsure as to whether the appropriation bill would include requirements similar to those included in FY 2013 regarding green reserve project funding and principal forgiveness. He stated that staff believes that the three green projects already on this list would satisfy any green project reserve requirement that might be included. The staff had also analyzed the projects with regard to the program's hardship criteria and was prepared to work with the Director on providing principal forgiveness to some projects as allowed by previous delegations if it is included in the federal appropriation language.

Board Decision: The Board voted unanimously to authorize the execution of 21 loans at the amounts, rates, and terms listed below. Loan closings are subject to the receipt of favorable financial capability analysis reports and supporting recommendations from VRA.

FY 2014 Loan Authorizations

	<i>Locality</i>	<i>Loan Amount</i>	<i>Rates & Loan Terms</i>
1	Town of Front Royal	\$50,000,000	0%, 20 years
2	Town of Clifton Forge	\$750,000	0%, 20 years
3	City of Norfolk	\$10,000,000	0%, 20 years
4	Town of Saltville	\$971,290	CR, 20 years
5	Rivanna WSA	\$37,262,000	CR, 20 years
6	City of Waynesboro	\$1,658,989	0%, 20 years
7	Dickenson County PSA	\$499,400	0%, 20 years
8	Wise County PSA	\$1,036,234	0%, 30 years
9	Castlewood WSA	\$4,682,800	0%, 20 years
10	Washington County SA	\$884,895	0%, 20 years
11	Town of Stuart	\$1,280,600	0%, 20 years
12	Town of Boones Mill	\$856,295	0%, 20 years
13	Town of Independence	\$470,500	0%, 20 years
14	Town of Hillsville	\$149,000	0%, 20 years
15	Henry County PSA	\$1,773,200	0%, 20 years
16	Lee County PSA	\$1,032,785	0%, 20 years
17	Wythe County	\$2,103,600	CR, 20 years
18	Blacksburg-VPI SA	\$11,833,000	CR, 20 years
19	City of Waynesboro (Stormwater)	\$1,664,750	0%, 20 years
20	Kissito	\$10,000,000	0.25%, 10 years
21	Meadowview Bio Res Station	\$449,000	0.25%, 10 years
	Total Request	\$139,358,338	

CR= Ceiling Rate

Melanie D. Davenport
 Director
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MINUTE NO. 11 – Public Forum

Mr. Scott Rae from Gloucester County appeared during the public forum. Mr. Rae expressed the County's concerns that the fee structure established for implementation of the stormwater management program at the local level does not set forth fees for certain provisions of the program that the local authority is required to implement.


Cindy M. Berndt



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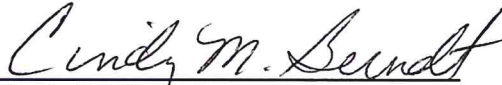
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MINUTE NO. 12 – Consent Special Orders

Mr. David K. Paylor reminded the Board that recent legislation enacted by the General Assembly resulted in the approval of consent special orders (orders) being processed in a manner similar to that of the State Air Pollution Control Board and Virginia Waste Management Board. He added, however, that due to the long-standing oversight of the Board on enforcement matters that he will continue to bring orders that meet certain criteria to the Board. Mr. Paylor advised the Board that those orders that (i) receive significant public comment related to the order, (ii) assess civil charges of \$40,000 or more, or (iii) address violations with significant environment impact would continue to be presented to the Board.


Cindy M. Berndt
Cindy M. Berndt



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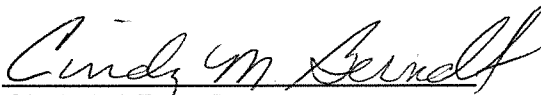
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MINUTE NO. 13 – Future Meetings

The Board confirmed March 28, June 26-27, September 29-30 and December 11-12, 2014, as the dates of their future meetings.


Cindy M. Berndt