



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

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[www.deq.virginia.gov](http://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

Friday, March 28, 2014  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia

#### Board Members Present:

Robert L. Dunn, Chair

Joseph H. Nash

Ben Grumbles

Thomas M. Branin (arrived at 10:12 a.m.)

William A. Pruitt, Vice-Chair

Thomas V. Van Auken

Heather L. Wood (left at 11:40 a.m.)

#### 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 Friday, March 28, 2014, 10:03 a.m., recessed at 11:40 a.m.; reconvened at 11:55 a.m. and adjourned at 12:59 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 MARCH 28, 2014

#### MINUTE NO. 1 - Minutes

The Board deferred action on the minutes from the December 17, 2013, meeting in order for staff to research a question from Dr. Van Auken regarding Minute No. 4.

  
Cindy M. Berndt  
Cindy M. Berndt



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF MARCH 28, 2014

#### MINUTE NO. 2 Regulation- Fast-Track amendments to the Tank Vessel Discharge Contingency Plan and Financial Responsibility Regulation (9VAC25-101 et seq.)

Melissa Porterfield presented the State Water Control Board (Board) with a fast-track amendment to the Tank Vessel Discharge Contingency Plan and Financial Responsibility Regulation (9VAC25-101 et seq.) This fast-track regulatory action updates the regulation with current state statute, adds clarity to the applicability of the regulation, corrects a statutory citation and removes an obsolete section of the regulation. This regulatory action does not place any additional regulatory requirements on operators of tank vessels within the Commonwealth.

The Board was asked to approve the use of the fast-track process and to adopt the amendments to the Tank Vessel Discharge Contingency Plan and Financial Responsibility Regulation (9VAC25-101 et seq.)

#### Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to authorize the 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 authorized adoption of the amendments to the Tank Vessel Discharge Contingency Plan and Financial Responsibility 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; and
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.

A handwritten signature in black ink, appearing to read 'Jeffery A. Steers', written over a horizontal line.

Jeffery A. Steers  
Division of Land Protection and Revitalization Director



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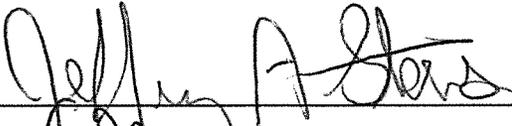
#### MINUTE NO. 3 Regulation- Final amendment to the Designated Groundwater Management Areas Regulation (9VAC25-600 et seq.)

Melissa Porterfield presented the State Water Control Board (Board) with a final amendment to the Designated Groundwater Management Areas Regulation (9VAC25-600 et seq.) Currently the regulation lists areas of Arlington County that are located east of Interstate 95 as being part of the Eastern Virginia Groundwater Management Area. Arlington County is located entirely to the west of Interstate 95. This final regulatory action removes the reference to Arlington County from the regulation.

The Board was asked to adopt the amendment to the Designated Groundwater Management Areas Regulation (9VAC25-600 et seq.) as a final regulation.

#### Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to accept the staff recommendation to adopt the amendment to the Designated Groundwater Management Areas Regulation (9VAC25-600 et seq.) as presented and directed the agency to make the regulation effective as soon as possible.



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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 MARCH 28, 2014

#### **MINUTE NO. 4 — Final Amendments to the Virginia Pollution Abatement Regulation and the Virginia Pollution Abatement General Permit Regulation for Animal Feeding Operations**

Betsy Bowles with the Office of Land Application Programs presented the final amendments to the Virginia Pollution Abatement Regulation and the Virginia Pollution Abatement General Permit Regulation for Animal Feeding Operations as contained in the Board book as well as additional amendments to 9VAC25-192 to modify citations to a regulation of the Virginia Soil and Water Conservation Board. The additional amendments were as follows:

1. page 29 in 9VAC25-192-90 C 1 c (2) - Replace 4VAC5-15-150 A 2 f with 4VAC50-85-140 A 2 f
2. page 29 in 9VAC25-192-90 C 1 c (3) - Replace 4VAC5-15-150 A 2 a with 4VAC50-85-140 A 2 a;

and

3. page 30 in 9VAC25-192-90 C 2 - Replace 4VAC5-15-150 A 4 with 4VAC50-85-140 A 4.

The Board was asked to adopt the final amendments to the Virginia Pollution Abatement Regulation and the Virginia Pollution Abatement General Permit Regulation for Animal Feeding Operations.

The following members of the public addressed the Board: Rachel Cannon & Jason Kane, William & Mary Virginia Coastal Policy Clinic; Ann Jennings, Chesapeake Bay Foundation; Katie Frasier, Virginia Agribusiness Council; and Wilmer Stoneman, Virginia Farm Bureau Federation.

A discussion by the Board followed the staff presentation.

#### **Board Decision:**

Based upon the Board book material, staff presentation and Board discussion, the Board voted unanimously to adopt the final amendments to 9VAC25-192-10 et seq. Virginia Pollution Abatement General Permit Regulation for AFOs as presented and 9VAC25-32-10 et seq. Virginia Pollution Abatement Permit Regulation, as presented; and affirm that the Board 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.

Melanie D. Davenport  
Director, Water Division



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 28, 2014

### **MINUTE 5 – Water Quality Standards Triennial Review**

Mr. John Kennedy, Office of Ecology and Infrastructure Director, made a presentation to the Board pertaining to the mandatory Triennial Review of Virginia's Water Quality Standards (9 VAC 25-260), with a recommendation to issue the Notice of Public Comment on proposed amendments.

Mr. Kennedy gave a background on actions to-date under the Triennial Review (TR) process, including:

- Notice of Intended Regulatory Action (NOIRA) publication on 8/12/13
- Public comment period held from 8/12/13 to 10/11/13
- Formation of Regulatory Advisory Panel (RAP), which met 3 times from November 2013 to January 2014

Based on public comment, RAP discussions and input from DEQ staff, proposed amendments to the Standards were developed. These fell into several general categories:

- Update criteria based on new EPA guidance
- Update waterbody class/use designations
- Miscellaneous clarifications and updates
- Revisions based on issues raised by agency programs

While there are over 100 individual revisions proposed, the presentation focused on the most important amendments that may generate public interest. These "Substantive Issues" included:

- Criteria updates to the Table of Parameters (Toxics) for both human health and aquatic life protection.
- A recommendation to delete the current Manganese criterion.
- Revised Ammonia surface water criteria.
- Consideration of revised Bacteria criteria for recreational waters, with a recommendation to not make any amendments at this time.
- Revisions to Special Standards 'm' (Chickahominy watershed above Walkers Dam); 'ee' and 'ff' (maximum temperature for winter-only stocked trout waters).
- Other trout water updates (segment delineations).
- Reclassifying several waterbodies from Class III (non-tidal waters) to Class VII (swampwaters).

- A recommendation to delete the Public Water Supply designation for a portion of the lower James River basin.
- Consideration of revised Selenium criteria for aquatic life protection, with a recommendation to not make any amendments at this time.
- Other minor changes to add a definition of 'wetlands', clarify application of Chesapeake Bay dissolved oxygen criteria, add 2 impoundments to Lake Nutrient criteria section, and typographical corrections.

The Board was informed that the Office of the Attorney General had certified their authority to propose the amendments, and following brief discussion and a few general questions the Board voted unanimously to approve these staff recommendations:

1. Authorize staff to proceed to public comment with proposed amendments to the Water Quality Standards Regulation, 9 VAC 25-260, developed during Triennial Review, and
2. Convene a public hearing on the proposed amendments with a Board member serving as hearing officer.

  
Melanie D. Davenport  
Water Division Director



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 28, 2014

#### MINUTE NO. 6 – WATERSHED PROGRAMS

Liz McKercher, Watershed Programs, presented three Total Maximum Daily Load (TMDL) reports and three waste load allocations for Board approval and amendment to the Water Quality Management Planning Regulation (WQMPR).

The proposed actions pertain to water bodies in the James River Basin. The TMDL reports included the following:

1. Phelps Branch Sediment TMDL (Appomattox County, James River Basin)
2. Long Branch and Buffalo River Sediment TMDLs (Amherst County, James River Basin)
3. Chickahominy River Sediment TMDL (Hanover and Henrico counties, James River Basin)

#### Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously to:

1. Approve the three Total Maximum Daily Load (TMDL) reports for inclusion into the Water Quality Management Plan, and
2. Adopt three corresponding TMDL Waste Load Allocations into the Water Quality Management Planning Regulation.

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

Melanie D. Davenport  
Director, Water Division



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 28, 2014

#### MINUTE NO. 7 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there were no new facilities to be reported as being in significant noncompliance for the quarter ending September 30, 2013.

The Board accepted the report.

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



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#### MINUTE NO. 8 – Home Associates of Virginia, Inc. Consent Special Order

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for Home Associates of Virginia, Inc. The Board unanimously approved the Order and further authorized the Director to execute the Order on the Board's behalf and to refer violations of the Order to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script that reads "Kathleen F. O'Connell".

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



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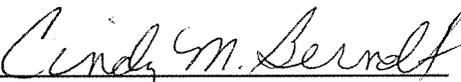
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#### MINUTE NO. 9 – Public Forum

No one appeared during the public forum.

  
Cindy M. Berndt  
Cindy M. Berndt



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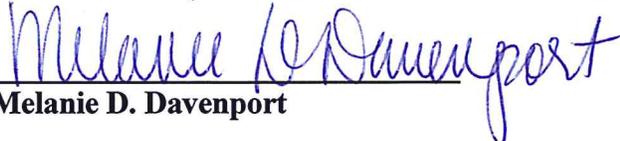
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 28, 2014

#### MINUTE NO. 10 - Division Director's Report

Ms. Melanie D. Davenport briefed the Board on legislation passed by the 2014 General Assembly affecting the stormwater programs that were transferred to the Board in 2013. In addition, Ms. Davenport reviewed five total maximum daily load (TMDL) reports and seven TMDL Implementation Plans for the Board and informed the Board that the Department would be approving the reports and plans.

  
Melanie D. Davenport  
Melanie D. Davenport



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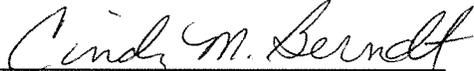
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 28, 2014

#### MINUTE NO. 11 – Future Meetings

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

  
Cindy M. Berndt  
Cindy M. Berndt