



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

STATE WATER CONTROL BOARD MEETING

**GALLERY, COMMUNITY COLLEGE WORKFORCE ALLIANCE,
1651 EAST PARHAM ROAD, RICHMOND, VA 23228**

THURSDAY August 25, 2022

Board Members Present:

Lou Ann Jessee-Wallace, Vice Chair
Scott Cameron
Jillian Cohen
Robert Dunn
Jerry Kilgore

Board Members Absent:

Heather Wood, Chair
Ryan C. Seiger

Department of Environmental Quality:

Michael Rolband, Director
Melissa Porterfield
Rachael Harrell

Office of the Attorney General:

Michael Jagels

1. The attached minutes summarize activities that took place at this Board Meeting.
2. The meeting convened at 10:32 a.m. and adjourned at 12:41 p.m.



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON AUGUST 25, 2022**

Minute No. 1- Minutes

The Board approved the minutes of the meeting held June 22, 2022 by a vote of (4-0) (Cameron, Cohen, Dunn, and Kilgore voted to approve and Wallace abstaining).


Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON AUGUST 25, 2022**

**MINUTE NO. 2 – Errata sheet for PROPOSED ACTION - LOCAL AND REGIONAL
WATER SUPPLY PLANNING REGULATION, 9VAC25-780 adopted by the Board
previously at their June 22, 2022 meeting**

Melissa Porterfield, State Water Control Board Coordinator, presented to the State Water Control Board (Board) an errata sheet to the proposed changes to the Local and Regional Water Supply Planning Regulation, 9VAC25-780 previously authorized for public comment by the Board. At the June 22, 2022 Board meeting, DEQ staff presented to the Board proposed amendments to the Local and Regional Water Supply Planning regulation (9VAC25-780). The Board voted to authorize a public comment period to be held on the proposed amendments to the regulation. Prior to submitting the regulatory package for executive review, DEQ staff identified proposed changes to the regulation that were inconsistent with statutory language found in Chapter 356 of the 2022 Acts of Assembly. (<https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+CHAP0356>). Staff presented an errata sheet that identified the corrections needed to the proposed regulatory language to make the proposal consistent with current state law. In most cases, the errata sheet identified where the term “board” should not be replaced with the term “department” in the proposed regulation.

Board Decision

Based on the information provided to the Board (errata sheet and staff presentation), the Board voted unanimously 5-0 (Wallace, Cameron, Cohen, Dunn, and Kilgore) by voice vote to include the edits identified on the errata sheet for the Local and Regional Water Supply Planning regulation (9VAC25-780) in addition to the amendments previously authorized for public comment at their June 22, 2022 meeting.

A handwritten signature in blue ink that reads "Melissa Porterfield".

Melissa Porterfield
State Water Control Board Coordinator



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON AUGUST 25, 2022**

MINUTE NO. 3 – Final Action- Revisions in response to CH 356 of the 2022 Acts of Assembly - 9VAC25-20, 9VAC25-31, 9VAC25-32, 9VAC25-40, 9VAC25-71, 9VAC25-91, 9VAC25-101, 9VAC25-110, 9VAC25-115, 9VAC25-120, 9VAC25-151, 9VAC25-190, 9VAC25-192, 9VAC25-193, 9VAC25-194, 9VAC25-196, 9VAC25-200, 9VAC25-210, 9VAC25-220, 9VAC25-260, 9VAC25-280, 9VAC25-370, 9VAC25-380, 9VAC25-390, 9VAC25-580, 9VAC25-590, 9VAC25-610, 9VAC25-630, 9VAC25-640, 9VAC25-650, 9VAC25-660, 9VAC25-670, 9VAC25-680, 9VAC25-690, 9VAC25-720, 9VAC25-740, 9VAC25-770, 9VAC25-780, 9VAC25-790, 9VAC25-800, 9VAC25-820, 9VAC25-840, 9VAC25-850, 9VAC25-860, 9VAC25-880 and 9VAC25-890

Melanie Davenport, Director, Water Permitting Division, presented regulatory amendments to the State Water Control Board (Board) needed in response to Chapter 356 of the 2022 Acts of Assembly. Chapter 356 of the 2022 Acts of Assembly limits the authority of the State Water Control Board (Board) under Chapters 3.1 (State Water Control Law), 24 (Surface Water Management Areas) and 25 (Ground Water Management Act of 1992), to the issuance of regulations and transfers the Board's existing authority to issue permits and orders to the Department of Environmental Quality. This statutory change became effective July 1, 2022.

Changes made to the regulations included changing the definition of "Board" to the statutory definition found in § 62.1-44.3 of the Code of Virginia. As of July 1, 2022, the term "Board" means "the State Water Control Board." However, when used outside the context of the promulgation of regulations, including regulations to establish general permits, pursuant to this chapter, "Board" means "the Department of Environmental Quality." Where appropriate, the term "board" within the regulations was updated with the term "department." Delegation of authority sections of the regulations were also removed where appropriate, since the Board will no longer delegate the issuance of permits or enforcement actions to the Department.

Changes were also made to the regulations in response to Enactment clause 6 of Chapter 356 of the 2022 Acts of Assembly. Enactment clause 6 directs the regulations to be revised to include criteria for requesting and granting a public hearing on a permit action during a public comment period in those instances where a public hearing is not mandatory under state or federal law or regulation. These changes were included where appropriate in permit regulations.

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON AUGUST 25, 2022- MINUTE 3

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Final amendments were presented to the following regulations:

VPDES regulation

Chapter 31 -Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation

VPDES General Permit regulations

Chapter 110 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day

Chapter 115 -Virginia Pollutant Discharge Elimination System (VPEDS) General Permit
Regulation for Seafood Processing Facilities

Chapter 120 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and
Hydrostatic Tests

Chapter 151 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Discharges of Stormwater Associated with Industrial Activity

Chapter 190 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Nonmetallic Mineral Mining

Chapter 192 -Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal
Feeding Operations and Animal Waste Management

Chapter 193 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit for
Concrete Products Facilities

Chapter 194 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Vehicle Wash Facilities and Laundry Facilities

Chapter 196 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit for
Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less

Chapter 800 -Virginia Pollutant Discharge Elimination System (VPDES) General Permit
Regulation for Discharges Resulting from the Application of Pesticides to Surface Waters

Chapter 820 -General Virginia Pollutant Discharge Elimination System (VPDES) Watershed
Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in
the Chesapeake Bay Watershed in Virginia

Chapter 860 -Virginia Pollutant Discharge Elimination System General Permit for Potable Water
Treatment Plants

Chapter 880 -General VPDES Permit for Discharges of Stormwater from Construction Activities

Chapter 890 -General VPDES Permit for Discharges of Stormwater from Small Municipal
Separate Storm Sewer Systems

VPA regulations

Chapter 32 -Virginia Pollution Abatement (VPA) Permit Regulation

Chapter 630 -Virginia Pollution Abatement Regulation and General Permit for Poultry Waste
Management

Tank related regulations

Chapter 91 -Facility and Aboveground Storage Tank (AST) Regulation

Chapter 101 -Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility
Regulation

Chapter 580 -Underground Storage Tanks: Technical Standards and Corrective Action
Requirements

Chapter 590 -Petroleum Underground Storage Tank Financial Responsibility Requirements

Chapter 640 -Aboveground Storage Tank and Pipeline Facility Financial Responsibility
Requirements

Chapter 210 -Virginia Water Protection Permit Program Regulation

Virginia Water Protection General Permits

Chapter 660 -Virginia Water Protection General Permit for Impacts Less Than One-Half Acre

Chapter 670 -Virginia Water Protection General Permit for Facilities and Activities of Utility
and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the
State Corporation Commission and Other Utility Line Activities

Chapter 680 -Virginia Water Protection General Permit for Linear Transportation Projects

Chapter 690 -Virginia Water Protection General Permit for Impacts from Development and
Certain Mining Activities

Erosion and Sediment Control

Chapter 840 -Erosion and Sediment Control Regulations

Chapter 850 -Erosion and Sediment Control and Stormwater Management Certification
Regulations

Groundwater

Chapter 280 -Ground Water Standards

Chapter 610 -Groundwater Withdrawal Regulations

Other regulations

Chapter 20 -Fees for Permits and Certificates

Chapter 40 -Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake
Bay Watershed

Chapter 71 -Regulations Governing the Discharge of Sewage and Other Wastes from Boats

Chapter 200 -Water Withdrawal Reporting

Chapter 220 -Surface Water Management Area Regulation

Chapter 260 -Water Quality Standards

Chapter 370 -Policy for the Protection of Water Quality in Virginia's Shellfish Growing Waters

Chapter 380 -Wetlands Policy

Chapter 390 -Water Resources Policy

Chapter 650 -Closure Plans and Demonstration of Financial Capability

Chapter 720 -Water Quality Management Planning Regulation

Chapter 740 -Water Reclamation and Reuse Regulation

Chapter 770 -Virginia Financial Responsibility Requirements for Mitigation Associated with
Tidal Dredging Projects

Chapter 780 -Local and Regional Water Supply Planning

Chapter 790 -Sewage Collection and Treatment Regulations

Board Decision

Based on the information provided to the Board (Regulatory amendments, Town Hall documents and staff presentation), the Board voted unanimously 5-0 (Wallace, Cameron, Cohen, Dunn, and Kilgore) by voice vote to adopt the amendments to 9VAC25-20, 9VAC25-31, 9VAC25-32, 9VAC25-40, 9VAC25-71, 9VAC25-91, 9VAC25-101, 9VAC25-110, 9VAC25-115, 9VAC25-120, 9VAC25-151, 9VAC25-190, 9VAC25-192, 9VAC25-193, 9VAC25-194, 9VAC25-196, 9VAC25-200, 9VAC25-210, 9VAC25-220, 9VAC25-260, 9VAC25-280, 9VAC25-370, 9VAC25-380, 9VAC25-390, 9VAC25-580, 9VAC25-590, 9VAC25-610, 9VAC25-630, 9VAC25-640, 9VAC25-650, 9VAC25-660, 9VAC25-670, 9VAC25-680, 9VAC25-690, 9VAC25-720, 9VAC25-740, 9VAC25-770, 9VAC25-780, 9VAC25-790, 9VAC25-800, 9VAC25-820, 9VAC25-840, 9VAC25-850, 9VAC25-860, 9VAC25-880 and 9VAC25-890 as final regulations, and affirm that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision..



Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON AUGUST 25, 2022**

MINUTE NO. 4 – Virginia Pollutant Discharge Elimination System General Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests (9VAC25-120)

Prior to the meeting the Board was provided materials including a briefing memo to the Board, which included the comments received during the public notice and staff's response to the comments received, the regulation showing proposed amendments, and the town hall agency background document. The proposed amendments include expanding the scope of the permit to include post-construction dewatering, adding metals limitations, and updating the title of the regulation to Virginia Pollutant Discharge Elimination System General Permit Regulation for Discharges from Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests. Alison Thompson, from the Northern Regional Office, presented a summary of the significant proposed changes to the regulation and comments received during the public notice.

Board Decision

Based on the briefing material and the staff presentation, the Board adopted the amendments to the Virginia Pollutant Discharge Elimination System General Permit for Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests General Permit, 9VAC25-120, as amended and presented, and also affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act, by an unanimous vote of 5 to 0.

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

Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON AUGUST 25, 2022**

MINUTE 5—Request for Final Adoption of Triennial Review Amendments to the Water Quality Standards Regulation (9VAC25-260)

Mr. Bryant Thomas, Director of the Office of Ecology, made a presentation to the Board pertaining to the mandatory Triennial Review of Virginia's Water Quality Standards (9VAC25-260), with a recommendation to adopt the final amendments as presented.

Mr. Thomas gave an overview of the Triennial Review (TR) process and scope, which focused on four general categories:

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

Mr. Thomas then provided a summary of comments received on the proposed amendments and DEQ's responses. Mr. Thomas also shared with the Board the changes that were made to the amendments between proposed and final stages. The Board was informed that the amendments will be forwarded to the Office of the Attorney General for agency statutory authorization.

Mr. David Sligh (Wild Virginia) and Mr. Patrick Fanning (Chesapeake Bay Foundation) addressed the Board with oral comments.

Following a few general questions, the Board voted unanimously to approve the adoption of the amendments to the Water Quality Standards Regulation (9VAC25-260), contingent upon Attorney General Office statutory authority, for Triennial Review as presented.



Jutta Schneider, Director
Division of Water Planning

August 30, 2022
Date



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**MINUTE NO. 6 – Virginia Pollutant Discharge Elimination System General Permit
Regulation for Discharges Resulting From the Application of Pesticides to Surface Waters
(9VAC25-800)**

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 proposed changes to the regulation.

Board Decision

Based on the briefing material and the staff presentation, a vote was taken and the Board approved the staff recommendations to authorize a public comment period and public hearing for amendment and reissuance of the VPDES General Permit Regulation for Discharges Resulting From the Discharges of Pesticides to Surface Waters (9VAC25-800), and to authorize the staff to serve as hearing officer for the public hearing, by a vote of five to zero.

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

Melanie D. Davenport
Director, Water Permitting Division



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Minute No. 7 – Future Meetings

The Board confirmed their next meeting date - November 29, 2022. Ms. Porterfield indicated she would be polling the board concerning their availability to attend future meetings in 2023.


Melissa S. Porterfield



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MINUTE NO. 8 – Division Director’s Report

Ms. Melanie D. Davenport provided a report to the Board on a number of initiatives DEQ is currently working on to improve the Stormwater program. She described two guidance documents; one that will provide for streamlined plan review and another that will serve as a design guide for stormwater and erosion and sediment control.

She also updated the Board on the status of the consolidated stormwater/erosion and sediment control regulation.

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

Melanie D. Davenport
Director, Water Permitting Division



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MINUTE NO. 9 – Mountain Valley Pipeline-Update

Ms. Melanie D. Davenport provided an update on the Mountain Valley Pipeline (MVP) project. She discussed (i) the construction status of the project (ii) significant field related events and (iii) compliance monitoring activities.

Ms. Davenport reported that the project has not resumed any forward-progress activities. The active land disturbing activities regulated by DEQ including clearing, grading and pipe trench excavation have ceased. At this time, the project is in a relatively dormant stage with the main activities being inspection and maintenance of environmental controls, and stabilization.

Finally, Ms. Davenport noted that during the period, three events were reported to DEQ's Pollution Response Program. DEQ investigated these complaints and found no non-compliance on the part of the project.

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

Melanie D. Davenport
Director, Water Permitting Division



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Minute No. 10 - Public Forum

Jessica Sims, Appalachian Voices, spoke during the public forum to express concern with potential environmental impacts from gold, copper, zinc, and lead mining within the Commonwealth.

A handwritten signature in blue ink that reads "Melissa S. Porterfield".

Melissa S. Porterfield