



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, SEPTEMBER 24, 2020

ELECTRONIC COMMUNICATION MEETING

Board Members Present:

Heather L. Wood, Chair

Timothy G. Hayes

Paula H. Jasinski

Ryan Seiger

Lou Ann Jessee-Wallace, Vice-Chair

James A. Lofton

Jillian Cohen

Board Members Absent:

None

Department of Environmental Quality:

David K. Paylor, Director

Debra A. Harris

Jutta Schneider

Karen Doran

Cindy M. Berndt

Melanie D. Davenport

Kristen Sadtler

John McCutcheon

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 10:01 a.m., recessed at 12:00 p.m., reconvened at 12:34 p.m., and adjourned at 2:16 p.m.
- 3) The Board convened the meeting electronically, consistent with Governor Ralph Northam's Executive Order No. 51 (2020), Item 4-0.01 g of Chapter 1283 of the 2020 Acts of Assembly and the applicable provisions of § 2.2-3708.2 of the Freedom of Information Act. The meeting was necessary for the Board to discharge its lawful purposes, duties, and responsibility; but it is impracticable or unsafe for the Board to assemble in a single location due to the declaration of a state of emergency for COVID-19. A roll call vote was performed for all votes taken during the meeting.

Approved Minute No. 1
December 9, 2020



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 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) 698-4020
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE NO. 1 - Minutes

The Board, by unanimous roll call vote, approved the minutes of the meeting on June 29, 2020.


Cindy M. Berndt



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON SEPTEMBER 24, 2020**

**MINUTE 2 - Final Regulation: Construction General Permit Regulation (9VAC25-880) -
2020 Legislation Amendment**

Melanie D. Davenport, Water Permitting Division, presented a final exempt regulatory amendment to 9VAC25-880. Ms. Davenport informed the Board that the amendment was necessary in order to incorporate changes to the State Water Control Law made during the 2020 General Assembly session regarding the registration statement section of the regulations related to “a process for notice of disposal of certain materials.” Ms. Davenport provided a synopsis of the changes made by Chapter 565 of the 2020 Acts of Assembly. Chapter 565 added requirements for the Department to establish a process that requires any person(s) who will be transporting fill offsite to disclose to DEQ the source of the fill, the content of the fill, and the location of disposal. Ms. Davenport then went through the regulatory amendments incorporating the necessary changes and the final exempt process.


DECISION:

Based on the information provided to the Board and the staff presentation and recommendation, the Board unanimously approved the following actions:

- Adopt the amendments incorporating the changes made to 9VAC25-880;
- Authorize the amendment’s publication; and
- Affirm that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.



Melanie D. Davenport, Director
Water Permitting Division



Date



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON SEPTEMBER 24, 2020**

**MINUTE 3 - Final Regulation: Virginia Stormwater Program Regulation (9VAC25-870) - 2020
Legislation Amendments**

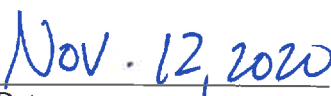
Melanie D. Davenport, Water Permitting Division, presented final exempt regulatory amendments to 9VAC25-870. Ms. Davenport informed the Board that the amendments were necessary in order to incorporate changes to the State Water Control Law made during the 2020 General Assembly session. These amendments include changes related to stormwater management facilities and mandated disclosure requirements for private residential lots, mandated reciprocity requirements for proprietary best management practices, and establishing nutrient credit and voluntary wasteload allocation requirements. Ms. Davenport provided a synopsis of the changes made by Chapters 313, 667, 1102, and 1103 of the 2020 Acts of Assembly. Chapter 313 requires owners of real estate property with knowledge of a privately owned stormwater management facility to disclose to the purchaser the long-term maintenance and inspection requirements for the facility. Chapter 667 allows reciprocity for the use of proprietary best management practices (BMP) only if another state, regional, or national program has verified and certified the BMPs nutrient or sediment removal efficiency. Chapters 1102 and 1103 place restrictions on the transfer of nutrient credits generated from the private sector, and allows publicly owned treatment works that are expanding or being constructed to permanently retire a portion of their wasteload allocation as an alternative to acquiring perpetual nutrient credits. Ms. Davenport explained through the regulatory amendments incorporating the necessary changes and the final exempt process.

DECISION:

Based on the information provided to the Board and the staff presentation and recommendation, the Board unanimously approved the following actions:

- Adopt the amendments incorporating the changes made to 9VAC25-870;
- Authorize the amendment's publication; and
- Affirm that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.


Melanie D. Davenport, Director
Water Permitting Division


Date



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON SEPTEMBER 24, 2020**

MINUTE 4 - Final Regulation: Virginia Water Protection Permit Program Regulation (9VAC25-210) - 2020 Legislation Amendment

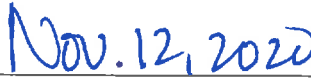
Melanie D. Davenport, Water Permitting Division, presented a final exempt regulatory amendment to 9VAC25-210. Ms. Davenport informed the Board that the amendments were necessary in order to incorporate changes to the State Water Control Law made during the 2020 General Assembly session regarding the administrative withdrawal of incomplete applications and a state agency name change that is referenced in the regulation. Ms. Davenport provided a synopsis of the changes made by Chapters 622 and 958 of the 2020 Acts of Assembly. Chapter 622 added requirements and provisions for notifying applicants when the Department intends to administratively withdraw an incomplete application, rather than propose the denial of such application to the Board, saving resources that would be expended on a public hearing for a tentative denial action. Chapter 958 revises all references in the regulation from Department of Game and Inland Fisheries to Department of Wildlife Resources (name change only), without change to any specific provisions. Ms. Davenport then went through the regulatory amendments incorporating the necessary changes and the final exempt process.

DECISION:

Based on the information provided to the Board and the staff presentation and recommendation, the Board unanimously approved the following actions:

- Adopt the amendments incorporating the changes made to 9VAC25-210;
- Authorize the amendment's publication; and
- Affirm that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.


Melanie D. Davenport, Director
Water Permitting Division


Date



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE NO. 5 – Significant Noncompliance Report and Chesapeake Bay Preservation Act Program Notices of Violation

Kristen Sadtler, Water Enforcement Program Manager, informed the Board that there were no new facilities reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending March 31, 2020.

Additionally, Kristen informed the Board that DEQ issued a Notice of Violation to the Town of Clifton on July 2, 2020 for its Chesapeake Bay Preservation Act Program (Program). DEQ and the Town of Clifton entered into a Corrective Action Agreement, effective September 8, 2020, which describes the Program's deficiencies, corrective actions, and a timeframe for completing corrective action.

The Board accepted the reports.

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

Kristen Sadtler
Water Enforcement Program Manager
Division of Enforcement



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE NO. 6 – VPDES Program Consent Special Order

Kristen Sadtler, Water Enforcement Program Manager, presented to the Board the Consent Order for the City of Covington. The Board took a vote by roll call and unanimously approved the Order by a vote of 7-0 (Jasinski, Wallace, Hayes, Lofton, Cohen, Wood, and Seiger) 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



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

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

www.deq.virginia.gov

Matthew J. Brinkler
Secretary of Natural Resources

David K. Taylor
Director

(804) 693-4000
1-800-592-5487

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE 7 – FY 2021 VCWRLF Southwest Virginia Pilot Program Funding Authorizations

Ms. Karen Doran, Program Manager of the Department's Clean Water Financing and Assistance Program (the Program), made a presentation to the Board based on a memorandum dated August 24, 2020. The memorandum identified the funding amounts for 13 Southwest Virginia Pilot Program projects being recommended by staff for FY 2021 Virginia Clean Water Revolving Loan Fund (the Fund) assistance.

Ms. Doran began her presentation by providing a brief overview of the Southwest Virginia Pilot Program and explained that these projects were being brought to the Board ahead of the full FY 2021 project list to ensure the project work is completed during dry weather months. She then summarized the FY 2021 application process for 13 projects targeted for a total of \$1,117,875 in assistance from the Fund. She explained that she had met with all of the potential FY 2021 Southwest Virginia Pilot Program funding recipients to verify the schedules and financial data used to evaluate the local impact and that staff had completed its eligibility determination for the projects. She stated that a public meeting on the proposed funding list was held on August 21, 2020 and no comments were received.

Board Decision: The Board voted unanimously to authorize the execution of funding agreements for the applicants and principal forgiveness amounts listed below.

FY 2021 VCWRLF Project List - Southwest Virginia Pilot Program Projects

	Applicant	Project Type	Funding Amount
1	Buchanan County Public Service Authority	SSES	\$75,000
2	Town of Hillsville	SSES	\$75,000
3	Town of Big Stone Gap	SSES	\$75,000
4	Town of Independence	SSES	\$56,250
5	Town of Satleville	SSES	\$75,000
6	Wythe County Board of Supervisors	SSES	\$116,625
7	Town of Chilhowie	SSES	\$67,500
8	Town of Wytheville	SSES	\$75,000
9	Tazewell County Public Service Authority	SSES	\$45,000
10	Bland County	SSES	\$82,500
11	Bristol Virginia Utilities Authority	SSES	\$225,000
12	Town of Abingdon	SSES	\$75,000
13	Town of Gate City	SSES	\$75,000
	TOTAL		\$1,117,875



Valerie Thomson
Director of Administration



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler David K. Paylor
Secretary of Natural Resources Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020**

MINUTE NO. 8 – Turbidity Water Quality Standard Development

Ms. Jutta Schneider provided an update on the status of numeric criteria development for turbidity, as requested by the Board during its April 2019 meeting. She discussed the state of the science, provided an overview of EPA's work on sediment-related criteria, shared examples of numeric turbidity from neighboring states, and answered questions from the Board. Ms. Schneider also discussed next steps, including publication of a Notice of Intended Regulatory Action and another Director's update at the December meeting of the Board.

A handwritten signature in cursive script that reads "Jutta Schneider".

Jutta Schneider
Director, Water Planning Division



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 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) 698-4020
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE NO. 9 - Future Meetings

The Board confirmed December 9, 2020, as the date of their next meeting.


Cindy M. Berndt



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020**

MINUTE NO. 10 – Water Permitting Division Director’s Report

Ms. Melanie D. Davenport provided an update on the Mountain Valley Pipeline project. She (i) provided an update on the construction status of the project, (ii) reviewed the results three inspections conducted at Yellow Finch Lane, (iii) reviewed significant events that occurred during the current period including no violations of the consent decree from June 10 – September 11, 2020, (iv) provided compliance monitoring statistics, (v) reported common areas of concern observed by the inspectors, and (vi) provided complaint statistics, (vii) showed photographs of current conditions at previous complaint sites, (viii) showed photographs comparing actual conditions to aerial pictures submitted September 16, 2020 by a citizen.


Melanie D. Davenport
Director, Water Permitting Division



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 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) 698-4020
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 24, 2020

MINUTE NO. 11 - Public Forum

Ms. Freeda Cathcart, Mr. Kirk Bowers and Ms. Nan Gray expressed concerns, complaints, and requests for stop work orders, suspension of erosion and sediment control approvals, and reconsideration of erosion and sediment control plans regarding the Mountain Valley Pipeline project.

Mr. David Sligh, on behalf of Wild Virginia, discussed several issues as contained in his September 23, 2020, letter, including narrative water quality criteria, numeric turbidity criteria, and numeric nutrient criteria. Ms. Kay Ferguson appeared and endorsed Mr. Sligh's comments, along with Mr. Phillip Musegaas of the Potomac Riverkeeper Network and Ms. Jessica Sims.

Ms. Mary Finley-Brook appeared and requested reopening of the Chickahominy Power Station groundwater permit, and expressed concerns for environmental justice issues and climate change.


Cindy M. Berndt