



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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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

MEMORANDUM

To: Members of the State Water Control Board

From : Melissa S. Porterfield

A handwritten signature in black ink, appearing to read "M. Porterfield".

Date: August 1, 2022

Subject: Minutes

Attached are the minutes from your meeting on June 22, 2022. Staff will seek your approval of the minutes at your next meeting.

If you have any questions, please contact Melissa S. Porterfield at (804) 698-4238 or melissa.porterfield@deq.virginia.gov.



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STATE WATER CONTROL BOARD MEETING

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

THURSDAY June 22, 2022

Board Members Present:

Heather Wood, Chair
Paula Hill Jasinski
Ryan C. Seiger
Jillian Cohen
Robert Dunn
Scott Cameron

Board Members Absent:

Lou Ann Jessee-Wallace, Vice Chair

Department of Environmental Quality:

Michael Rolband, Director
Melissa Porterfield
Jill Hrynciw

Office of the Attorney General:

Michael Jagels
Chris Bergin

1. The attached minutes summarize activities that took place at this Board Meeting.
2. The meeting convened at 10:35 a.m., recessed at 12:25 p.m., reconvened at 1:03 p.m. and adjourned at 1:28 p.m.



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 22, 2022**

Minute No. 1- Minutes

The Board approved the minutes of the meeting held March 25, 2022.


Melissa S. Porterfield

Approved Minutes No 1.
August 25, 2022



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON June 22, 2022**

MINUTE NO. 2 – Fast-track Regulations Repeal: Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concentrated Animal Feeding Operations, 9VAC 25-191

Neil Zahradka, Manager of the Office of Land Application Programs presented background information on the subject regulation. Mr. Zahradka explained that a periodic review was concluded in October 2021, and public comments received supported the repeal of this regulation. The result of the periodic review was to repeal the regulation. The general permit associated with this regulation is expired, there are no activities currently covered by this regulation, and concentrated animal feeding operations are currently regulated in Virginia under 9VAC25-31, 9VAC25-32, 9VAC25-192, or 9VAC25-630.

Board Decision

Based upon the Board book briefing material and information provided by staff, the Board voted unanimously 6-0 to accept the staff recommendation 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 also constitutes its repeal of the 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 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 JUNE 22, 2022**

MINUTE NO. 3 – Overview of Chapter 356 of the 2022 Acts of Assembly

Angela Jenkins provided the board with a summary of Chapter 356 of the 2022 General Assembly session. During the 2022 Session of the General Assembly, SB 657 was passed. This bill limits the authority of the State Water Control 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. Governor Youngkin signed this bill into law on April 11, 2022, (Chapter 356 of the 2022 Acts of Assembly) and these changes to state law have an effective date of July 1, 2022. This agenda item was informational only and no board action was taken.

A handwritten signature in blue ink, appearing to read "A. Jenkins", written over a horizontal line.

**Angela Jenkins, Director
Policy Division**



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 22, 2022**

MINUTE NO. 4 – Occoquan Policy (9VAC25-410)

Prior to the meeting the Board was provided materials including a briefing memo to the Board, which included the references to the Senate bills passed by the 2022 General Assembly that resulted in the final exempt action, the regulation showing proposed amendments, and the Town Hall agency background document.

The proposed amendments consist of including language that enables a Virginia Pollutant Discharge Elimination System Permit to be issued to a small sewage treatment facility that has documented history of noncompliance and which is unable to connect to a publicly owned sewage treatment facility. Additionally, Chapter 410 was also amended to address changes to the authority of the State Water Control Board. Sarah Sivers, from the Northern Regional Office, presented a summary of the proposed changes to the regulation.

Board Decision

Based on the briefing material and the staff presentation, the Board approved to adopt these amendments as final regulations, authorize their publication, and affirm that the Board will receive, consider and respond to petitions by any interested persons at any time with respect to reconsiderations or revision, by an unanimous vote of 6-0 (Wood, Seiger, Cohen, Cameron, Dunn, and Jasinski).

A handwritten signature in black ink 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 JUNE 22, 2022**

**MINUTE 5 – FINAL EXEMPT – CHESAPEAKE BAY PRESERVATION AREA
DESIGNATION AND MANAGEMENT REGULATIONS- 9VAC25-830**

Justin Williams, Director, Office of Watershed and Local Government Assistance Programs, presented final exempt regulatory amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations in response to statutory changes from the 2022 General Assembly as follows:

1. Amending 9VAC25-830 in response to Chapter 356 of the Virginia Acts of Assembly which made changes to the Code of Virginia that limit the authority of the State Water Control Board to the issuance of regulations; and transfer the Board's existing authority to issue permits and orders to the Department of Environmental Quality.
2. Amending 9VAC25-830-130(7)(a)(3) in response to Chapter 486 of the 2022 Virginia Acts of Assembly which added a requirement directly related to compliance with onsite sewage system pump-outs to be managed and enforced by the Department of Health in Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland Counties, and the incorporated towns within those counties.
3. Amending 9VAC25-830-60 in response to Chapter 207 of the 2022 Virginia Acts of Assembly which added a requirement directing localities in Tidewater Virginia (which are defined by statute) to publish criteria and elements on its website adopted by the locality to implement its local plan as required by the Chesapeake Bay Preservation Act.

The Attorney General's Office provided certification on June 15, 2022 that the amendments are within the Board's authority pursuant to Chapter 3.1 of Title 62.1 of the Code of Virginia and exempt from Article 2 of the APA pursuant to Va. Code 2.2-4006(A)(14).

Board Decision:

Based upon the information provided to the Board and the staff recommendation, the Board, by a vote of 6-0 (Wood, Seiger, Cohen, Cameron, Dunn, and Jasinski) adopted the final exempt amendments to the CBPA Designation and Management Regulations at 9 VAC25-830, as presented, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.


Jutta Schneider, Director
Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON JUNE 22, 2022**

**MINUTE NO. 6 – Virginia Stormwater Management Program (VSMP) Regulations-
9VAC25-870**

Melanie Davenport, Director of the Water Permitting Division, presented a summary of the three final exempt actions amending the Virginia Stormwater Management Program Regulations in response to Chapter 32 (House Bill 1224), Chapter 160 (House Bill 184), and Chapter 356 (Senate Bill 657) of the 2022 Acts of Assembly of the General Assembly.

The amendment provides for the certification and use of a proprietary best management practice (BMP) if another state, regional, or national program has verified its nutrient or sediment removal effectiveness and its having met or exceeded all of such program's established test protocol requirements. In response to Board questions about the rationale for this legislative change, Ms. Davenport provided a history of Virginia developing its certification program, previous General Assembly actions, and an overview of how the certification process works in Virginia.

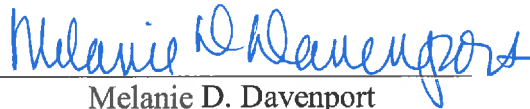
The second amendment authorizes a locality that administers a Virginia Stormwater Management Program (VSMP) or a Virginia Erosion and Stormwater Management Program (VESMP) to administer such program of a regional industrial facility authority of which the locality is a member. This is to be conducted in accordance with an agreement entered into by relevant localities and the existing VSMP or VESMP for the property. In response to questions from Board members, Ms. Davenport explained that, in the absence of such an agreement, DEQ acts as the VSMP authority for regional industrial facility authorities.

The final proposed amendment incorporates changes to the authority of the State water Control Board.

Board Decision

Based on the information provided to the Board and the staff presentation and recommendation, the Board by a vote of 6-0 (Wood, Seiger, Cohen, Cameron, Dunn and Jasinski), approved the following actions:

- Adopt the amendments incorporating the change made to 9VAC25-870;
- Authorize the amendments' 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



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING
ON JUNE 22, 2022**

MINUTE NO. 7 — Certification of Nonpoint Source Nutrient Credits- 9VAC25-900

Prior to the meeting the Board was provided materials including a briefing memorandum, which included a draft of the Virginia Regulatory Town Hall Documents (TH-09) detailing the revisions to Chapter 900 in response to Senate Bill 187, Senate Bill 188, and Senate Bill 657 (2022 General Assembly session).

Melanie D. Davenport, Director of the Water Permitting Division presented a summary of the three final exempt actions regarding the Certification of Nonpoint Source Nutrient Credits. First, changes to the regulation were made that allow the Department of Environmental Quality to accelerate the release of nutrient credits generated by a stream restoration project based risk, provision of additional financial assurance and experience of the applicant. The provisions of this bill will not become effective until 30 days after DEQ issues guidance regarding the implementation of this new requirement.

Next, changes were made to the regulation to allow the use of third-party long-term stewards to hold and manage the long-term management fund to maintain stream restoration projects. Finally, the proposed changes incorporate changes to the authority of the State Water Control Board.

Board Decision

Based on the information provided to the Board and the staff presentation and recommendation, the Board by a vote of 6-0 (Wood, Seiger, Cohen, Cameron, Dunn and Jasinski), approved the following actions:

Adopt the amendments incorporating the change made to 9VAC25-900;
Authorize the amendments' 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.

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 JUNE 22, 2022**

**MINUTE 8 – FINAL ACTION - GENERAL PERMIT REGULATION FOR USE OF THE
SURFICIAL AQUIFER IN A GROUNDWATER MANAGEMENT AREA, 9VAC25-920**

Joseph Grist, Office of Water Supply, presented information to the Board regarding a final regulatory action developed in response to statutory changes in Chapter 670 of the 2020 Acts of Assembly. The General Assembly directed the State Water Control Board to adopt regulations to address impacts of non-agricultural irrigation on the confined aquifer system in the Eastern Virginia and Eastern Shore Groundwater Management Areas by prospectively prohibiting the use of these aquifers unless the quality and quantity of the surficial aquifer is insufficient for the proposed beneficial use. Mr. Grist provided an overview of the background, regulatory process and the final regulation, including reasons to deny coverage, exclusions from the requirements of the general permit, and proposed application and general permit conditions.

Prior to the meeting, the Board was provided materials in a briefing memo, which included a list of the regulatory advisory panel membership, the town hall agency background document, and the final regulation.

Board Decision

Based on the information provided to the Board (briefing material and staff presentation), the Board voted unanimously 6-0 (Wood, Seiger, Cohen, Cameron, Dunn, and Jasinski) by voice vote to approve the General Permit Regulation for Use of the Surficial Aquifer in a Groundwater Management Area (9VAC25-920).



Jutta Schneider, Director
Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON June 22, 2022**

MINUTE NO. 9 – Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (9VAC25-196)

Prior to the meeting the Board was provided materials including a briefing memo which included a list of the technical advisory committee membership, the regulation showing proposed amendments, and the town hall agency background document. Joseph Bryan from the Office of VPDES Permits, Central Office, presented a summary of the significant proposed changes to the regulation.

Board Decision

Based on the briefing material and the staff presentation, and the Board, by a vote of 6-0 (Wood, Seiger, Cohen, Cameron, Dunn and Jasinski), approved the staff recommendations to authorize a public comment period and public hearing for amendment and reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less (9VAC25-196), and to authorize the staff to serve as hearing officer for the public hearing.

A handwritten signature in blue ink 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 JUNE 22, 2022

**MINUTE NO. 10 – PROPOSED ACTION - LOCAL AND REGIONAL WATER SUPPLY
PLANNING REGULATION, 9VAC25-780**

Scott Kudlas, of the Office of Water Supply, presented a summary of the background, regulatory process and significant proposed changes to the Local and Regional Water Supply Planning Regulation, 9VAC25-780. The proposed amendments were developed in response to statutory changes in Chapter 1105 of the 2020 Acts of Assembly and Chapters 331 and 356 of the 2022 Acts of Assembly. The Notice of Intended Regulatory Action was published on June 7, 2021, and a Regulatory Advisory Panel was formed and met six times, concluding on April 6, 2022, to assist the Department in developing the proposed amendments.

Prior to the meeting, the Board was provided materials in a briefing memo, which included a list of the regulatory advisory panel membership, the town hall agency background document, and the regulation showing proposed amendments.

Board Decision

Based on the information provided to the Board (briefing material and staff presentation), the Board voted unanimously 6-0 (Wood, Seiger, Cohen, Cameron, Dunn, and Jasinski) by voice vote to authorize a public comment period for the proposed amendments to the Local and Regional Water Supply Planning Regulation, 9VAC25-780.


Jutta Schneider, Director
Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 22, 2022**

Minute No. 11- Significant Noncompliance Report and Chesapeake Bay Preservation Act Program
Notices of Violations

James Golden, informed the State Water Control Board there were no new facilities reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance (SNC) for the quarter ending December 31, 2021. The SNC report for the quarter ending March 31, 2022 was not available. He also informed the Board that DEQ did not issue any Chesapeake Bay Preservation Act Program Notice of Violations between February 11, 2022 to May 19, 2022.

Golden James
bia20947
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DN: CN = Golden James bia20947
OU = COV-Users, End-Users, DEQ
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James Golden



Commonwealth of Virginia

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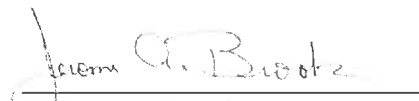
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Jerome A. Brooks
Regional Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 22, 2022**

**MINUTE NO. 12 – Consent Special Order LVL data Center/HITT Contracting, Inc., &
MINUTE NO. 13 – Consent Special Order Waste Management of Virginia, Inc. – Charles
City County landfill**

Jerome Brooks, DEQ Piedmont Office Regional Director, presented to the Board the Consent Orders for LVL data Center/HITT Contracting, Inc. and Waste management of Virginia – Charles City County Landfill together with the Board's approval. The Board took a vote and unanimously approved both Orders and further authorized the Department's Director to execute both Orders on the Board's behalf and refer violations of Orders to the Office of the Attorney General for appropriate legal action.



Jerome A. Brooks

Regional Director, Piedmont Regional Office



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON June 22, 2022**

MINUTE 14 – Guidelines for the Stormwater Local Assistance Fund Program

Mr. Matthew Link, Project Oversight Team Lead of the Department's Clean Water Financing and Assistance Program, made a presentation to the Board based on a memorandum dated May 24, 2022. The memorandum discussed proposed revisions to the Stormwater Local Assistance Fund (SLAF) Program Guidelines prompted by changes to sections of the Code of Virginia pertaining to the program and those recommended to improve the program through a stakeholder engagement process.

Mr. Link explained that during the drafting of the revisions to the guidelines, DEQ provided draft versions of the Guidelines to the SLAF stakeholder group which included the Virginia Municipal Stormwater Association, Hampton Roads Planning District Commission, Northern Virginia Regional Commission, Chesapeake Bay Foundation, James River Association, and representatives from Local Governments. Stakeholder comments were discussed and resolved during six stakeholder meetings held over two months. DEQ incorporated stakeholder input and made final revisions to the guidelines.

Mr. Link explained to the Board that the revised guidelines were presented to the public for a 30-day public comment period from April 18 to May 18, 2022 during which a total of five communications were received, with one change to the date of a referenced document made in response to comment, and all other comments having been previously addressed. Mr. Link provided a summary of guidelines revisions to the Board and recommended the Board approve the revised guidelines.

Board Decision: The Board voted unanimously to approve the revised SLAF Program Guidelines.

A handwritten signature in black ink, appearing to read "Alvie Edwards".

Alvie Edwards
Director of Administration



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON JUNE 22, 2022**

Minute No. 15 - Future Meetings

The Board confirmed their next meeting dates – August 25, 2022 and November 29, 2022.

Handwritten signature of Melissa S. Porterfield in blue ink.

Melissa S. Porterfield



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MINUTE NO. 16 – 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 ceased all forward-progress activities. The active land-disturbing activities regulated by DEQ including clearing, grading and pipe trench excavation were halted for the winter and have not resumed. At this time, the project is in a relatively dormant stage with the main activities being inspection and maintenance of environmental controls, access roads and work spaces.

Ms. Davenport reported that since the last Board meeting, limited small areas have been disturbed for the installation of cathodic protection anode beds. Additionally, MVP has performed some vegetative management.

Finally, Ms. Davenport noted that during the period, two events were reported to DEQ's Pollution Response Program. After inspections, DEQ determined that neither of these incidents were the result of MVP non-compliance.

A handwritten signature in blue ink 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 MARCH 25, 2022**

Minute No. 17- 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.


Melissa S. Porterfield