

**Eastern Virginia Ground Water Management Area Regulation Amendments and
Ground Water Withdrawal Regulation Amendments
Regulatory Advisory Panel Meeting
DEQ Piedmont Regional Office
April 15, 2013 - 1 p.m.
MEETING NOTES**

RAP members present

Ron Harris, Newport News Waterworks, representing the Va. Section of the American Waterworks Association

Gayl Fowler representing SAIF Water Wells, Inc.

Christian Volk, Ph.D., Water Quality Manager, representing VA/MD-American Water
Thomas J. Roberts, RockTenn Corp. (formerly Smurfit-Stone Container), representing Mission H₂O

Britt McMillan, Malcolm Pirnie, representing Eastern Shore of Virginia Groundwater Committee

Al Moor, alternate for Larry Foster representing Hampton Roads Planning District Commission

Susan Douglas, Va. Dept of Health

Curtis Consolvo, GeoResources

Frank W. Fletcher, PhD, Retired professor

Don Gill, Lancaster County- alternate for Bill Pennell, former Lancaster County Administrator (Bill Pennell has retired as Lancaster County Administrator)

George Harlow, U.S. Geological Survey

Jesse Royall, Sydnor Hydro

Harry Critzer, Director, Stafford Co. Public Utilities

Butch Nottingham, VDACS

P.J. Smith, representing VMA

RAP Members not present

David Bailey, The Environmental Law Group

Sheryl Raulston, International Paper- Franklin Mill, representing VMA

Larry Foster representing Hampton Roads Planning District Commission

John D. O'Dell, Water Well Solutions, LC

Lynn Gayle, Taylor and Fulton, Inc. and member of the Va. Potato and Vegetable Grower's Association

Lewis Lawrence, Middle Peninsula Planning District Commission

Public Attendees

Jackie Rickards, Middle Peninsula Planning District Commission

Anthony Creech, Resource International

Barry Matthews, VDH- Office of Drinking Water

Steve Werner, Draper Aden Assoc.

DEQ Staff

Scott Kudlas

Melissa Porterfield
Craig Nicol
Melanie Davenport

Purpose of today's meeting is to share information on the comments received on the proposed regulations and to explain the changes that are being made to the regulations in response to comments. The public comment period for these regulations has closed. Mr. Scott Kudlas presented the information below to the RAP.

The regulations were presented as proposed regulations to the State Water Control Board in June 2010. The proposed regulations were under executive review for over two years. Three public hearings were held on the proposals, and the comment period closed on January 30, 2013. DEQ has followed up with commenters that submitted technical comments. In general comments fell into three categories:

- No regulation necessary;
- Changes to regulatory language that would be conflicting with current statute; and
- Detailed comments, mostly about things on which consensus was not reached on.

Examples of comments suggesting changes that were in conflict with statute included:

- Changing the length of the permit term;
- Comments related to "public water supply use priority";
- Comments relating to allocation grandfathering, "guarantees," or automatic renewals;
- Comments relating to elimination of conjunctive use permits; and
- Comments related to the definition of "drought relief wells".

The following changes are being made to the regulations in response to detailed comments received.

Section 10- Definitions

- Deletion of definition of historic prepumping levels
- Definition of human consumption has been modified

This change eliminates the pre-pumping head in favor of land surface for measuring the 80% drawdown. This eliminates a source of error in the model, makes subsequent calculations easier, and allows for a little more water to compensate for using the full area of impact.

Section 80-Declaration of Groundwater Management Areas

- Added language to allow postal or electronic delivery of information. This change is being made in response to statutory changes becoming effective July 1, 2013 (Chapter 348 of the 2013 Acts of Assembly). E-mail will be primarily used to provide information.

Section 100- Water Conservation and Management Plans

- B 1 a (municipal and non-municipal public water supplies) and C 1 a (non-public water supply applicants- commercial and industrial users) revised to address concerns with contents of water conservation and management plans

Section 106- Supplemental drought relief wells

- G 6 revised to address the technical evaluation that will be conducted for withdrawals that are needed as a result of drought conditions (term stabilized removed)- clarifies that the evaluation is a transient evaluation and not a continuous pumping evaluation.
- G 6 revised to address how the 80% drawdown criteria will be applied- (a point that is 80% of the distance between the land surface and the top of the aquifer.)

Section 108- Estimating area of impact for qualifying groundwater withdrawals

- C revised to clarify that the evaluation will be performed on the geophysical investigation, not a geophysical evaluation to eliminate redundancy and to be consistent with previous language.

Section 110- Evaluation criteria for permit applications

- D 3 a - word “viable” replaced with the term “practicable”
- D 3 h - revised to address how the 80% drawdown criteria will be applied- (a point that is 80% of the distance between the land surface and the top of the aquifer.)
- D 4 - word “may” replaced with “shall”
- D 4 – Additional items that board shall consider when evaluating a withdrawal application have been added. This addresses concerns expressed from public water supplies. Items added include public benefit as well as prior public investments related to groundwater withdrawals. Board must consider these issues, including the investments, when evaluating a groundwater permit. Previously these items were not considered when evaluating a permit’s merits.

Section 340- Denial of a permit or special exception

- A 1- revised to address how the 80% drawdown criteria will be applied- (a point that is 80% of the distance between the land surface and the top of the aquifer.)
- A 4- being removed “Failure to implement a water conservation and management plan associated with previously permitted withdrawal.” This is being removed since issues with failure to implement a water conservation and management plan will be addressed through enforcement during the term of the permit.

Other items that were not revised in the regulations include:

- Aquifer storage and recovery-ASR- no changes made to the regulations at this time that directly address this issue. The agency needs to do further work to develop the technical basis for a regulatory framework that makes sense for Virginia.

- Greater water table use- The idea of use prioritization for use of water table has merit. The agency needs to work further with the agricultural community and green industry to gain greater consensus for this change.
- Pump settings- This is the greatest driver of loss of inelastic storage, dewatering and subsidence (USGS). Pumps need to be moved up to protect aquifers from losing inelastic storage.
- Relationship to Water Supply Planning- Plan work is informative, but not determining. Water Supply info provides detailed demand projections. Permittees should not submit permit applications that are in conflict with the water supply plan.
- General Permits (GP) - Used in situations when there are substantial similarities in use and impact. General Permits are used where minimal potential for environmental impacts exist (in this case head decline). DEQ does not believe these conditions exist in any way. If there are changes, DEQ has the authority to create a GP.

Next steps for these regulations

- A final regulation will be presented for approval at the June 17, 2013, State Water Control Board meeting
- Regulations become final once review completed by administration
- Guidance for these regulations is currently under development. The agency's goal is to have guidance needed in response to the regulatory revisions available once the regulations become final. The agency may seek assistance from individuals when developing guidance.
- New model being readied for use. No date as of yet as to when the new model will be used. Scott Kudlas will let folks know when this model change is scheduled to occur.

The meeting adjourned at 2:45 p.m.