



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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

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Travis A. Voyles  
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**

**WEDNESDAY AUGUST 23, 2023**

**Board Members Present:**

Lou Ann Jessee-Wallace, Vice Chair  
Scott Cameron  
Robert Dunn  
Jerry Kilgore  
Reece Robertson  
Ryan Seiger

**Board Members Absent:**

none

**Department of Environmental Quality:**

Michael Rolband, Director  
Melissa Porterfield  
Jill Hrynciw

**Office of the Attorney General:**

Ross Phillips

1. The attached minutes summarize activities that took place at this Board Meeting.
2. The meeting convened 10:30 a.m. and adjourned at 12:19 p.m.



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON AUGUST 23, 2023**

Minute No. 1- Minutes

The Board approved the minutes of the meeting held June 22, 2023 by a vote of (6-0).

  
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON AUGUST 23, 2023**

**Minute No. 2- Errata sheet for final Virginia Erosion and Stormwater Management  
Regulation 9VAC25-875 adopted by the Board previously at their June 22, 2023 meeting**

Melissa Porterfield, State Water Control Board Coordinator, presented to the State Water Control Board (Board) an errata sheet to the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, previously adopted as a final regulation at the June 22, 2023. Prior to submitting the regulatory package for executive review, DEQ staff identified two errors in the final regulatory language adopted by the Board: 1) an incorrect definition at 9VAC25-875-210; and 2) a phrase in 9VAC25-875-590 C that is not in the corresponding section of the regulation that it replaces, 9VAC25-870-65 C. Staff prepared an errata sheet that identifies the required corrections.

**Board Decision**

Based on the information provided to the Board (errata sheet and staff presentation), the Board voted unanimously 6-0 (Wallace, Cameron, Dunn, Kilgore, Reece, and Seiger) by voice vote to include the edits identified on the errata sheet for the Adoption of Virginia Erosion and Stormwater Management Regulation, 9VAC25-875 in addition to the amendments previously adopted at their June 22, 2023 meeting.

  
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 23, 2023**

**MINUTE NO. 3 - Virginia Pollutant Discharge Elimination System (VPDES) General  
Permit Regulation for Discharges of Stormwater from Small Municipal Separate Storm  
Sewer Systems (9VAC25-890)**

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 final amendments, an errata sheet for the final amendments, the town hall agency background document and the Office of Regulatory Management Economic Review Form. Jeffrey Selengut of the Office of VPDES Permits, Central Office, presented a summary of the significant final changes to the regulation. Mr. Patrick Fanning (Chesapeake Bay Foundation) and Jill Southerland (HRPDC) addressed the Board with oral comments.

**Board Decision**

Based on the briefing material and the staff presentation, the Board voted unanimously to approve the final regulation and to receive, consider, and respond to any petitions by any person at any time which respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

A handwritten signature in black ink, appearing to read "Rebecca Rochet".

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**Rebecca Rochet**  
**Deputy Director, Water Permitting Division**



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON August 23, 2023**

**MINUTE NO. 4 – Proposed regulation- Reissuance of Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Feeding Operations and Animal Waste Management (9VAC25-192)**

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 the proposed amendments, the town hall agency background document, and the Office of Regulatory Management Economic Review Form.

Betsy Bowles, the State Animal Feeding Operations Program Coordinator with the Office of Land Application Programs presented the proposed amendments to the Virginia Pollution Abatement (VPA) Regulation and General Permit for Animal Waste Management (9VAC25-192), which will expire on November 15, 2024. Ms. Bowles explained that this amendment would allow the existing Regulation and General Permit to be reissued for another 10 year term. The VPA Regulation and General Permit governs the pollutant management activities of animal wastes at animal feeding operations not covered by a Virginia Pollutant Discharge Elimination System permit and animal waste utilized or stored by animal waste end-users.

**Board Decision**

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize the Department of Environmental Quality to conduct a Public Comment Period and Public Hearing on the proposed VPA Regulation and General Permit for Animal Waste Management (9VAC25-192).

A handwritten signature in black ink, appearing to read "Scott Morris".

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Scott Morris  
Director, Water Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER  
CONTROL BOARD AT ITS MEETING ON AUGUST 23, 2023**

**MINUTE NO. 5 – Petition to promulgate a site-specific aquatic life ambient criterion for  
selenium - 9VAC25-260**

Prior to the meeting, the Board was provided materials which included a briefing memo containing background information regarding the petition to initiate rulemaking, a copy of the petition, a discussion of relevant issues and a summary of public comments received. Mr. Bryant Thomas, Manager of the Office of Ecology, made a presentation regarding the petition received from Clintwood JOD, LLC (CJOD) requesting that the Board promulgate site-specific freshwater aquatic life criterion (SSC) for selenium for several tributaries to Knox Creek in Buchanan County. Specifically, the petitioner has requested the Board to amend the Virginia Water Quality Standards regulation (9VAC25-260 et. Seq.) to include the 2016 U.S. Environmental Protection Agency (EPA) recommended selenium water quality criterion for protection of aquatic life for four (4) specific streams, and their tributaries, in Buchanan County. Mr. Thomas provided to the Board a summary of background information regarding selenium sources, uses, and effects on aquatic life. Mr. Thomas then summarized CJOD's position regarding their request, described actions taken to date on the petition and summarized public comments received and relevant issues concerning the petition.

**Board Decision**

Based on the briefing material and staff presentation, a vote was taken, and the Board approved by a 5 to 1 vote staff recommendation to proceed with rule-making consistent with the request of the petitioner. The following Board members voted to approve staff recommendation: Ms. Jessee-Wallace, Ms. Robertson, Mr. Dunn, Mr. Kilgore and Mr. Cameron. Mr. Seiger did not support staff recommendation. The Board authorized staff to proceed with a rulemaking to incorporate site specific selenium criteria as a special standard in Virginia's Water Quality Standards regulation (9VAC25-260) consistent with the petition request for the streams identified in the Knox Creek drainage in Buchanan County.

A handwritten signature in cursive script, reading "Elizabeth McKercher".

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Elizabeth McKercher  
Director, Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON AUGUST 23, 2023**

**Minute No. 6- Report to the Board Regarding Controversial Permits**

Ms. Porterfield reported that there we no controversial permits to report to the board at this time.

A handwritten signature in cursive script that reads "Melissa Porterfield".

Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER  
CONTROL BOARD AT ITS MEETING ON AUGUST 23, 2023**

**MINUTE NO. 7 – Mountain Valley Pipeline-Update**

Mr. Matthew Stafford provided an update on the Mountain Valley Pipeline (MVP) project. He discussed (i) the status of the project, (ii) current construction activities and (iii) compliance monitoring activities.

Mr. Stafford reported that on June 8, 2023 the Federal Environmental Regulatory Commission issued an order authorizing all construction on the project. On July 10 and 11, 2023 the US Fourth Circuit Court of Appeals authorized new stays of construction on the project. After MVP filed an emergency action with the US Supreme Court on July 14, 2023 to vacate all stays, the US Supreme Court granted the request on July 27, 2023. Since resuming construction, MVP has completed eight stream/wetland crossings.

Mr. Stafford noted that current construction activities include replacing timber mat crossings, conducting coating testing and repair of pipe coatings, and the completion of stream and wetland crossings.

Finally, Mr. Stafford noted that during the period since the last Board meeting, one complaint was received by DEQ and further investigation found no non-compliance. DEQ and its third-party inspectors continue to perform daily inspections.

A handwritten signature in cursive script, appearing to read "Scott Morris".

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Scott Morris  
Director, Water Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
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**Minute No. 8- Future Meeting**

No future meeting dates were confirmed for the Board at this meeting.

  
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
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**Minute No. 9- Public Forum**

David Sligh, Wild Virginia, addressed the board with about concerns with the deposit of sedimentation in the water body named Flatwoods Branch located in Montgomery County, a tributary to the north fork of the Roanoke River. Mr. Sligh requested the board allow Mountain Valley Pipeline comments during the public forum.

Jessica Sims, Appalachian Voices, spoke during the public forum to express concerns about the Virginia Reliability Project and asked the board to consider holding a public meeting on the project. She also brought to the Board's attention changes to state code concerning stop work authority for pipeline projects and requested the DEQ and the Board's assistance to make safety inspection reports of FEMSA and the SCC made public. Ms. Sims requested the board allow Mountain Valley Pipeline comments during the public forum.

  
Melissa S. Porterfield