



Approved 2/23/24- Minute #1

*Commonwealth of Virginia*

*VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY*

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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**

**THURSDAY NOVEMBER 30, 2023**

**Board Members Present:**

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

**Board Members Absent:**

none

**Department of Environmental Quality:**

Michael Rolband, Director  
Melissa Porterfield  
Rachael Harrell

**Office of the Attorney General:**

Ross Phillips  
Jim Flaherty

1. The attached minutes summarize activities that took place at this Board Meeting.
2. The meeting convened 10:00 a.m. and adjourned at 11:54 a.m.



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON NOVEMBER 30, 2023**

**Minute No. 1- Revised agenda and Election of Officers**

The Board voted (6-0) to revise the tentative agenda to include election of officers. Ms. Wallace was elected chair of the State Water Control Board by a vote of (6-0).

A motion was made and seconded to nominate Mr. Scott Cameron as Vice-chair.

A motion was made and seconded to nominate Ms. Reece Robertson as Vice-chair.

Mr. Cameron, Mr. Dunn and Mr. Seiger voted to elect Mr. Cameron Vice-chair. Ms. Robertson, Ms. Wallace, and Mr. Kilgore voted to elect Ms. Robertson Vice-chair. Both motions failed to pass.

After the vote, Mr. Kilgore made a motion to delay election of vice-chair until the next board meeting. The board voted unanimously (6-0) to delay election of vice-chair until the next board meeting.

  
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
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**Minute No. 2- Minutes**

The Board approved the minutes of the meeting held August 23, 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 NOVEMBER 30, 2023**

**MINUTE 3 – WATER QUALITY MANAGEMENT PLANNING REGULATION  
(9VAC25-720) AMENDMENTS - ADOPTION OF 6 NEW TMDL WASTELOAD  
ALLOCATIONS**

Justin Williams, Manager, Office of Watershed and Local Government Assistance Programs, presented an amendment to the Water Quality Management Planning Regulation for six new waste load allocations for Board approval.

The proposed actions pertain to water bodies in the James River Basin and Roanoke River Basin:

1. Two new waste load allocations for sediment in Moores Creek and Mill Creek located in Rockbridge and Augusta counties, Virginia.
2. Four new waste load allocations for sediment in Beaverdam Creek, Fryingpan Creek, Pigg River, and Poplar Branch in Bedford, Franklin, and Pittsylvania counties, Virginia.

**Board Decision:**

Based on the Board Book briefing material and the staff presentation, the Board voted unanimously (6-0, Cameron, Dunn, Kilgore, Robertson, Seiger, Wallace) to adopt the Water Quality Management Planning Regulation amendments 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.

A handwritten signature in cursive script that reads '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 November 30, 2023**

**MINUTE NO. 4** – Updates to date of 40 CFR incorporated by reference and references to EPA Methods.

Prior to the meeting the Board was provided materials including a briefing memo which contained an overview of the Regulatory changes needed to multiple regulations based on the USEPA Method Update Rule adoption. This regulatory action updated the following regulations:

- Virginia Pollutant Discharge Elimination System Permit (VPDES) Regulation (9VAC25-31)
- Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32)
- Virginia Water Protection (VWP) Permit Program Regulation (9VAC25-210)
- Groundwater Withdrawal Regulations (9VAC25-610)
- Virginia Water Protection (VWP) General Permit for Impacts Less Than One-Half Acre (9VAC25-660)
- Virginia Water Protection (VWP) 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 (9VAC25-670)
- Virginia Water Protection General Permit for Linear Transportation Projects (9VAC25-680)
- Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (9VAC25-690)
- Sewage Collection and Treatment Regulations (9VAC25-790)

William Norris from the Office of Water Planning, Central Office, presented an overview of the Method Update Rule, a summary of regulations that would be updated as a result of aligning State Regulations with the 2020 USEPA Method Updates Rule, and a presentation detailing what was being changed, and why it was being changed.

## **Board Decision**

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt amendments to the Virginia Pollutant Discharge Elimination System Permit (VPDES) Regulation (9VAC25-31), Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32), Virginia Water Protection (VWP) Permit Program Regulation (9VAC25-210), Groundwater Withdrawal Regulations (9VAC25-610), Virginia Water Protection (VWP) General Permit for Impacts Less Than One-Half Acre (9VAC25-660), Virginia Water Protection (VWP) 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 (9VAC25-670), Virginia Water Protection General Permit for Linear Transportation Projects (9VAC25-680), Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (9VAC25-690), and Sewage Collection and Treatment Regulations (9VAC25-790) 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.



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**Scott Morris**  
**Director, Water Division**



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WATER CONTROL BOARD AT ITS MEETING ON NOVEMBER 30, 2023

**MINUTE NO. 5- FINAL ACTION - LOCAL AND REGIONAL WATER SUPPLY  
PLANNING REGULATION, 9VAC25-780**

Weedon Cloe, Manager of the Office of Water Supply, presented a summary of the background, regulatory process, and final proposed amendments 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 and in response to comments received during the public comment period for this regulatory action (May 21, 2023 - July 21, 2023).

Ms. Andrea Wortzel from Mission H2O addressed the Board requesting that an advisory review panel be convened to facilitate stakeholder engagement during the guidance development process.

**Board Decision**

Based upon the Board Book briefing material and information provided by staff, the Board voted unanimously (6-0) to approve the Local and Regional Water Supply Planning Regulation, 9VAC25-780 as recommended by staff.

A handwritten signature in black ink that reads "Elizabeth McKercher".

Elizabeth McKercher, Director  
Water Planning Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE  
WATER CONTROL BOARD AT ITS MEETING ON NOVEMBER 30, 2023**

**MINUTE NO. 6 – Virginia Pollutant Discharge Elimination System General Permit  
Regulation for Nonmetallic Mineral Mining (9VAC25-190)**

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 changes being made to the regulation.

**Board Decision**

Based on the briefing material and the staff presentation, a vote was taken and the Board approved by a vote of six to zero the staff recommendations to authorize the amendments and reissue the VPDES General Permit Regulation for Nonmetallic Mineral Mining (9VAC25-190). The Board also affirmed that they would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulation, as provided by the Administrative Process Act.

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

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**Anthony Morris**  
**Director, Water Division**





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**EXCERPT FROM THE PROCEEDINGS OF THE STATE  
WATER CONTROL BOARD AT ITS MEETING ON November 30, 2023**

**MINUTE NO. 7 – Reissuance of Virginia Pollutant Discharge Elimination System (VPDES)  
General Permit Regulation for Storm Water Discharges Associated with Industrial Activity  
9VAC25-151**

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, and the town hall agency background document. Joseph Bryan from the Office of VPDES Permits, Central Office, presented a summary of the significant final changes to the regulation.

**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 with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

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

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**Scott Morris**  
**Director, Water Division**



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**MINUTE NO. 8 – Revised 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 the regulation showing the revised 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 revised proposed amendments to the VPA Regulation and General Permit for Animal Waste Management (9VAC25-192), which will expire on November 15, 2024. Ms. Bowles explained that the Department of Conservation and Recreation (DCR) recently removed the nutrient management plan special condition related to groundwater monitoring which prompted the first proposal to increase the groundwater monitoring frequency in the general permit. The rationale for the first proposal to increase the frequency of groundwater monitoring was to bring consistency to the general permit and nutrient management plan requirements and avoid confusion for the permittee. The removal of the nutrient management plan special condition eliminates the reason to increase the monitoring frequency and the groundwater monitoring requirement will remain once every three years. 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 for staff to serve as the hearing officer for the revised proposed VPA Regulation and General Permit for Animal Waste Management (9VAC25-192).

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

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Scott Morris  
Director, Water Division



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**MINUTE NO. 9 – Petition to Regulate commercial fishing vessel pump water as a point source pollutant.**

Prior to the meeting the Board was provided materials including a briefing memo which contained a copy of the petition and a summary of comments received during the petition comment period. Joseph Bryan from the Office of VPDES Permits, Central Office, presented an overview of the petition, a summary of comments received, and a discussion of the applicability of federal and state laws and regulations.

**Board Decision**

Based on the briefing material and the staff presentation, the Board voted unanimously to not initiate a rulemaking in response to the petition.

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

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**Anthony Scott Morris**  
**Director, Water Division**



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON NOVEMBER 30, 2023**

**Minute No. 10- Withdrawal of regulatory actions pertaining to Proposed Facility and Aboveground Storage Tank (AST) Regulation (9VAC25-91)- Amendment of the AST Regulation and Proposed James River (Richmond Regional West) Surface Water Management Area (9VAC25-760)**

Rachael Harrell, Board Coordinator, presented the State Water Control Board (Board) with a housekeeping item. The Board was requested to withdraw outdated incomplete regulatory actions pertaining to the Facility and Aboveground Storage Tank (AST) Regulation (9VAC25-91)- Amendment of the AST Regulation and the Proposed James River (Richmond Regional West) Surface Water Management Area (9VAC25-760). Due to the length of time that has passed since these actions were proposed it would not be appropriate to continue to use these actions to amend the regulation or adopt a new regulation.

The Board voted (6-0) to withdraw the Proposed Facility and Aboveground Storage Tank (AST) Regulation (9VAC25-91)- Amendment of the AST Regulation (Action 966 / Stage 2249) and the Proposed James River (Richmond Regional West) Surface Water Management Area (9VAC25-760) - Adoption of the James River (Richmond Regional West) Surface Water Management Area (Action 886 / Stage 1875).

  
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON NOVEMBER 30, 2023**

**MINUTE 11 – FY 2024 VCWRLF Loan Authorizations**

Mr. Michael Crocker, Regional Team Manager of the Department’s Clean Water Financing and Assistance Program (the Program) made a presentation to the Board based on a memorandum dated October 20, 2023. The memorandum identified the loan amounts, terms, and interest rates for 26 projects being recommended by staff for FY 2024 Virginia Clean Water Revolving Loan Fund (the Fund) assistance.

Mr. Crocker began his presentation by summarizing the FY 2024 application process for 26 projects targeted for a total of \$189,548,275 in assistance from the Fund. He explained that staff had completed its user charge impact analyses for the targeted recipients in order to establish the interest rates in accordance with Board guidelines. He stated that a public meeting on the proposed funding list was held on October 19, 2023 and no comments were received.

Mr. Crocker explained that all the interest rate analyses have been finalized in accordance with the Board approved guidelines and the resulting recommendations were included in the memorandum to the Board. As approved by the Board in previous years, staff recommended revisions to the program rates and term options offered to borrowers whose project type and impact to user rates resulted in a program rate based on the Board’s Guidelines. Based on consultation with the Virginia Resources Authority (VRA), he stated that the staff was recommending that the program rate calculation vary depending on the term of the loan for wastewater projects.

Staff recommendation: Authorize the execution of loan agreements for the projects, loan amounts, interest rates and terms listed below, and that 20-year term program rates are set at 1.5% (150 basis points) below market, 25-year term program rates are 1.25% (125 basis points) below market, and 30-year term program rates are 1.00% (100 basis points) below market, based on VRA’s evaluation of the market conditions that exist about a month prior to each loan closing. The interest rate for Southwest Virginia Pilot Program construction projects would be 0%, the hardship interest rate will be 0.5%, and the minimum interest rate would be 1% for all other loans. Loan closings would be subject to receipt of a favorable financial capability analysis report and supporting recommendation from VRA for each loan recipient.

<b>FY 2024 Proposed Interest Rates and Loan Term Authorizations</b>		
<i>Applicant</i>	<i>Loan Amount</i>	<i>Rates and Loan Terms</i>
Upper Occoquan Service Authority	\$10,268,000	0%, up to 20 years
Maury Service Authority	\$350,000	0%, up to 20 years
Town of Honaker	\$1,958,000	0%, up to 30 years
City of Norton	\$1,891,000	0%, up to 30 years
Town of Pennington Gap	\$2,697,130	0%, up to 30 years
Town of Gate City	\$704,000	0%, up to 30 years
City of Portsmouth	\$6,608,064	0.5%, up to 30 years
HRSD	\$30,000,000	PR, up to 25 years
Sanitary Board of Bluefield	\$2,407,909	0.5%, up to 30 years
Henry County PSA	\$3,563,000	0.5%, up to 30 years
BVU Authority	\$7,294,000	PR, up to 30 years
Sussex Service Authority	\$3,950,000	0.5%, up to 30 years
Town of Buchanan	\$1,842,000	0.5%, up to 25 years
City of Danville	\$15,000,000	0.5%, up to 25 years
Smyth County	\$6,337,600	0.5%, up to 30 years
City of Waynesboro	\$9,040,000	0.5%, up to 25 years
Bland County	\$4,126,000	0.5%, up to 25 years
Town of Abingdon	\$2,101,500	0.5%, up to 25 years
City of Radford	\$3,695,000	PR, up to 25 years
City of Richmond	\$30,000,000	0.5%, up to 25 years
County of Greene	\$13,400,000	PR, up to 30 years
Tazewell County PSA	\$3,577,980	0.5%, up to 25 years
Prince William County	\$20,000,000	PR, up to 25 years
Middlesex County	\$341,092	0.5%, up to 30 years
Town of Glasgow	\$1,396,000	0.5%, up to 25 years
Town of Kilmarnock	\$7,000,000	0.5%, up to 25 years
<b>TOTAL</b>		<b>\$189,548,275</b>
PR = Program Rate *minimum 1%		

Board Decision: The Board voted unanimously (6-0) to adopt the staff's recommendation.



\_\_\_\_\_  
 Scott Morris  
 Director of Water



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
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**Minute No. 12 - Report to the Board Regarding Controversial Permits**

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

  
Melissa S. Porterfield



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER  
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**MINUTE NO. 13 – Mountain Valley Pipeline-Update**

Mr. John McCutcheon provided an update on the Mountain Valley Pipeline (MVP) project. He discussed (i) current construction activities and (ii) compliance monitoring activities.

Mr. McCutcheon reported that since the last State Water Control Board meeting there have been no delays to construction activities and that all phases in the process of pipeline construction beyond surveying and tree felling are presently underway.

Mr. McCutcheon noted that the presently ongoing construction phases include clearing, grading, trench excavation, pipe stringing and welding, hydrostatic testing, regrading, topsoiling, planting and open cut and trenchless stream and wetland crossings. As of November 24, 2023, 195 resource crossings have been completed, 52 crossings were under construction, DEQ has been notified that 29 crossings will be starting in the next 48 hours and DEQ is awaiting notification for the start of the remaining 59 crossings.

Mr. McCutcheon noted the construction schedule has expanded to six and seven days per week and that DEQ and its third-party inspectors continue to perform daily inspections. During the period since the last Board meeting, DEQ received 31 complaints concerning stormwater discharge, fugitive dust or work outside of permitted areas. All complaints were investigated, no non-compliance was observed, and no corrective actions were specified. In the third quarter of 2023, DEQ issued stipulated penalty demands for two items specified in the Consent Decree, both relating to timely completion of corrective actions.

The State Water Control Board voted to remove the Mountain Valley Pipeline Update as a standing agenda item and requested the Department of Environmental Quality to provide updates on the project as warranted.

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

Scott Morris  
Director, Water Division





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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON NOVEMBER 30, 2023**

**Minute No. 14- Future Meeting**

The Board confirmed their next meeting date as February 23, 2024.

  
Melissa S. Porterfield



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**Minute No. 15- 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.

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

Melissa S. Porterfield